

March 22, 1965

lowing language after the word "services": "directly in connection with the consultation regarding and the preparation and execution of documents necessary to accomplish the legal placing or arranging for the placement of a child in a home for permanent free care or adoption."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The next committee amendment will be stated.

The LEGISLATIVE CLERK. On page 5, line 12, it is proposed after the word "or" to strike out "courts" and insert "any court."

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The amendment was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there is no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 624) was ordered to be engrossed for a third reading, and was read the third time and passed.

John D. Dadd

PROPOSED AMENDMENTS TO THE FEDERAL FIREARMS ACT AND THE NATIONAL FIREARMS ACT

Mr. DODD. Mr. President, today, I am introducing two bills recommended by the administration, one "to amend the Federal Firearms Act," the other "to amend the National Firearms Act."

These proposals constitute a major implementation of President Johnson's war on our exploding crime problem.

The first of these bills would normally be referred to the Senate Commerce Committee. I have cleared with appropriate Senators a request to have this bill referred to the Judiciary Committee, and at this time I ask unanimous consent that the bill be so referred.

Mr. MAGNUSON. Mr. President, reserving the right to object—and I shall not object—I and the other members of the Committee on Commerce are very conscious of the interest of the Senator from Connecticut in the so-called gun bills. Last year a similar bill was referred to the Senate Committee on Commerce. In fact, two or three bills were so referred. But on the major bill, which was introduced by the Senator from Connecticut [Mr. Dobb], the committee conducted some lengthy hearings.

There was some opposition to portions of the bill, and that resulted from the fact that a great number of people in the country felt that the bill should be modified. The objections came particularly from the western part of the United States. In the Western States gun laws are fashioned to fit the general area involved and the type of people who live in those areas. They consist of ranchers and people who are generally more scattered. We were about to arrive at a sensible compromise on the question.

The chairman of the committee himself desired to have the bill passed as introduced, particularly as it related to those under legal age.

Mr. DODD. Yes.

Mr. MAGNUSON. But we had a problem. We then asked the American Bar Association—and they agreed—to set up a committee to study the question, because some constitutional questions were involved. There was the question of the constitutional right to bear arms and similar questions. That is sometimes a pretty sensitive point with people who live in the West. The American Bar Association agreed to set up a committee to study the possibility of drafting a uniform measure for the States, which the States could implement or do whatever they wished to do about it. That committee has not yet made a report. It might wish to make a report to the Judiciary Committee. Because of the constitutional question involved, I believe it was properly referred to the Judiciary Committee. After the Judiciary Committee is through with the measure, which I hope will be soon, the Committee on Commerce will take a quick look at it. I assure the Senator that our look at the interstate commerce provisions of the bill will be quick. I think we can get on with this proposal now. The differences have been pretty well adjusted by all of us in regard to this type of legislation. I am very hopeful that it can be passed as soon as possible.

Mr. DODD. Mr. President, I thank the Senator from Washington. He has been diligent and helpful in many respects. He and I have conferred on a number of occasions about the bill. I know of his interest in enacting the proper kind of proposed legislation. I am grateful to him for his cooperation this morning in allowing the bill to be referred to the Committee on the Judiciary.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DODD. Under the arrangement that we have worked out, once the Judiciary Committee has reported back a bill to the Senate, and I hope this will be soon because I expect to hold hearings very shortly, the Commerce Committee will have an opportunity to express its views and opinions on the Judiciary Committee's recommendations.

I have conducted hearings covering every section of the country, in an attempt to bring before the public the tragedy and imbecility of our failure as a society to civilize the use of firearms.

In terms of legislative accomplishment, the result of this 4-year effort has, thus far, been a lamentable cipher.

But there has been considerable success in stimulating awareness of the problem and support for its solution, from the people, in the press, among my colleagues, and from the White House, a success which stems, not from my advocacy alone, but from the condition itself, so incendiary, so chaotic, so idiotic, that its continuation challenges the sense and even the sanity of our society and our lawmakers.

It is, therefore, with a sense of thanksgiving, and, hopefully, with a sense of victory in the air that I introduce, in behalf of the administration, legislation calling for controls more comprehensive and stringent than I dared to hope for in the heedless and complacent years gone by when 10 million weapons were placed in unknown hands, foreshadowing a toll in death and in tragedy that has yet to be reckoned.

The two bills which I have just introduced will, in brief, do the following:

First. Prohibit mail-order sales of firearms to individuals by limiting firearms shipments in interstate and foreign commerce to shipments between importers, manufacturers, and dealers.

Second. Prohibit sales by federally licensed importers, manufacturers, and dealers, of all types of firearms to persons under 21 years of age, except that sales of sporting rifles and shotguns could continue to made to persons over 18 years of age.

Third. Prohibit a Federal licensee from selling a firearm, other than a rifle or shotgun, to any person who is not a resident or businessman of the State in which the licensee's place of business is located.

Fourth. Curb the flow into the United States of surplus military weapons and other firearms not suitable for sporting purposes.

Fifth. Bring under Federal control interstate shipments and disposition of large-caliber weapons such as bazookas and antitank guns, and destructive devices such as grenades, bombs, missiles, and rockets.

Sixth. Increase license fees, registration fees, and occupational taxes under the Federal and National Firearms Acts.

Seventh. Provide other Federal controls designed to make it feasible for States to control more effectively traffic in firearms within their borders under their police power.

Mr. President, I send to the desk an exhaustive, line-by-line analysis and description of each bill, and I ask unanimous consent that the analyses and the bills be printed in the Record at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. DODD. This legislation will be thoroughly scrutinized in committee hearings and later in floor debate. The opposition to it comprises one of the most formidable and effective lobbies in legislative history, and I speak for 4 years of rueful personal experience.

I assure my colleagues that every strategem the mind of men can devise against this bill, fair and unfair, will be pressed with crusading vigor.

No strength in it will go unscathed.

No weakness in it will remain undiscovered.

And I also give assurance that the case for these bills will be presented completely and, I hope, convincingly.

I believe that the press, the clergy, the many responsible elements in the arms

industry, and public-spirited groups everywhere will help us to present this case.

Let me go back and briefly outline my position on the firearms problem.

I first introduced an amendment to the Federal Firearms Act on August 2, 1963, well before the tragic assassination of President Kennedy. The legislation was painstakingly built, brick by brick, on a foundation of 2½ years of investigation and study of the firearms problem in the United States.

The record which the subcommittee compiled contained all the documentation necessary for the Congress to consider a bill such as the one recommended by me. I endeavored to make that record clear, and I believe that I have done so. The existence of a mail-order gun problem was quite apparent to me and to the scores of witnesses who testified before the Juvenile Delinquency Subcommittee.

In my original proposal in 1963, I approached the problem in a moderate manner. My bill did not go as far as would the bill the President has recommended and which I introduce today. I took this approach because I thought that control over the traffic in concealable weapons would be sufficient at that time.

Subsequently, after the assassination of President Kennedy with a mail-order rifle, I amended my bill to include shotguns and rifles because I was convinced that no real control over the traffic in dangerous firearms could be effective without covering the so-called long guns.

However, the assassination was not my only reason for including all firearms in my bill. While this tragedy painfully dramatized the situation, evidence gathered by the subcommittee in its continuing investigation revealed that rifles and shotguns were, indeed, a major contributing factor to the crime explosion being experienced by this Nation.

Yet, as we all know, the blind, almost mindless, efforts of a segment of the gun enthusiasts, with their shabby, time-worn slogans, have, to date, been successful in defeating my efforts.

My reasonable legislative approach has not become law and the firearms problem in the land has worsened, almost by the hour.

Today, in these introductory remarks, I shall try only to answer three basic questions.

Is this a problem of sufficient scope to justify Federal controls?

Cannot State and local authorities do this job?

Will these Federal controls effectively solve the problem?

As for the scope of this problem, I need only say that in the year 1963, approximately 5,000 people were murdered with firearms.

Fourteen hundred were murdered with rifles and shotguns.

About 2,500 of these murders were committed with mail-order weapons.

Let me cite, at random, from my files, some individual aspects which should personalize the statistics and put flesh and bones on them for all of us.

As recently as January 30, 1965, a 15-year-old youngster from nearby Batt-

more, shot and killed his father, mother, and sister with a foreign-made, 38-caliber revolver, which he has purchased from the gunrunner, Martin Retting, in Los Angeles, Calif.

As he was arrested, another gun was being delivered to him by Railway Express from the same gunrunner.

This is the same gunrunner who imported and sold the telescopic sight used by Lee Harvey Oswald to track and kill President Kennedy.

On February 4, 1965, a student at the University of California shot and killed his biology instructor with a foreign-made, Walther P-38 pistol, which he purchased from Hunter's Lodge, a mail-order gunrunner firm in Alexandria, Va.

I would cite the following recent reports of sniper murders and shootings in the subcommittee files. They have one thing in common. They involve boys in their middle teens and rifles that are available by mail order.

In New York City, a 16-year-old admitted wounding an 11-year-old boy with a mail-order type rifle in a sniper attack.

In New York State, a 16-year-old youngster shot a young bride with a mail-order type rifle.

Again, in New York State, two youngsters ages 14 and 17, are involved in the sniper shooting with a mail-order rifle of two elderly men.

In St. Louis, two youths are held by police in the rifle sniping of homes.

In Los Angeles, one youth is killed and another wounded by a rifleman armed with a mail-order type firearm.

I could go on, reading into the record page after page of these needless atrocities. But I have said enough to show that this is a vast problem, which involves every city and village and which potentially threatens the safety of any and every home in the land.

Can State and local authorities handle this job? No.

To any scholar who is looking for the classic situation that requires a full partnership between local and State and Federal governments, I recommend the problem of controlling the use of firearms.

Federal, State, and local governments must enact laws which are complementary, one to the other, as there must be a law to regulate every situation under which a gun can be obtained.

Local and State laws, however stringent, are mockeries if the purchaser can circumvent them secretly via the mail-order route.

And adequate Federal control over foreign imports and the interstate flow of weapons is robbed of half its effectiveness if there is no control over who may obtain weapons at the local gunshop.

This should be obvious to all but the simple-minded and the incorrigibly wrongheaded.

Allow me to sketch briefly the meaningless shambles to which local controls have been reduced by foreign imports and interstate mail-order sales.

During 1963 and 1964, almost 2½ million firearms were imported into the

United States from England, Germany, France, Italy, and Spain.

This figure does not include the tens of thousands of ordnance-type firearms, including antitank guns.

Nor does it include the tens of thousands of weapons which have been imported as parts, components, or scrap metal.

When this colossal inventory of surplus foreign weapons is channeled to individual purchasers through the mail-order route in defiance or in indifference to local and State laws, the task of local authorities becomes insuperable.

These investigations conducted by the Juvenile Delinquency Subcommittee revealed that mail-order firearms have been sent to known criminals in cities all across the country.

Guns have been pouring into New York in circumvention of the well-known Sullivan law there.

In Pittsburgh, juveniles and convicted criminals are receiving mail-order weapons, despite the Uniform Firearms Act of the State of Pennsylvania.

Four thousand of Chicago's citizens, over a 3-year period, received weapons from just two mail-order dealers.

One thousand of them had criminal records. They were known felons who had been convicted for crime after crime.

In Los Angeles, many mail-order firearms have been confiscated from convicted felons who used them in the commission of armed robberies.

In September of 1964, the Federal Bureau of Investigation seized four Russian Army Tokarev semiautomatic rifles, which had been shipped into an area of high racial tension in Mississippi by one of our largest firearms importers. This was done right at the height of the tension there. We have one of those guns in our possession, which was found at the height of the very difficulty which Congress is now trying to settle peacefully. Members of the Ku Klux Klan obtained those guns from one of these gunrunning mail-order houses.

In December of 1964, we had the attempted shelling of the United Nations building by a German World War II mortar which was traced to a firm in New Jersey.

In October 1964, as a result of a feared assassination attempt on President Johnson, a cache of automatic firearms, including foreign weapons, was seized by authorities near Corpus Christi, Tex.

In November of 1963 a Finnish anti-tank gun was taken from three youths in New Jersey who were discovered shelling nearby farm buildings which, thankfully, happened to be empty.

Some of the incidents are so bizarre and fantastic as to be almost comic, were it not for their grim harvest of death and destruction.

What can be said of a society which tolerates such caricatures of civilized conduct?

The best that can be said of it is that it is asleep; and it is our task to wake it up.

Let us start at the top, by fulfilling the Federal responsibility, through eliminating the mass dumping of foreign

weapons here and through shutting off the mail-order traffic.

Then let us ask every community in this land to impose strict requirements on the local level.

Will any controls, and specifically these Federal controls, solve a problem of this nature?

Will not those who want guns manage to get them, whatever the law says?

Questions such as these are often raised against any attempt to clean up these abuses.

My answer is that we must start somewhere. We cannot surrender to anarchy.

The facts are on the side of those who believe that we can solve this problem.

Mr. President, I am not suggesting that if we enact these gun bills all crimes perpetrated with firearms will cease; but we can make a start, to make sure that dope addicts, the mentally deranged, convicted felons, and children, will not be allowed to buy rifles with which to shoot at their fellow citizens.

FBI information demonstrates that in those areas where firearms regulations are lax, the homicide rate by firearms is substantially higher than in those areas where there are more stringent controls.

In Dallas, Tex., and Phoenix, Ariz., where firearms regulations are practically nonexistent, the percentage of homicides committed by guns in 1963 was 72 percent in Dallas, and 65.9 percent in Phoenix.

In cities where there are strong regulations, we have the following figures: Chicago, 46.4 percent; Los Angeles, 43.5 percent; Detroit, 40 percent; and Philadelphia, 36 percent. And in New York City—which has been disparaged in many ways as being thought of by some as the center of crime in America—with its much-maligned Sullivan law, the rate of murder by gun was 25 percent. Thus, regulation has made a strong impact on this situation even though the uncontrolled interstate traffic makes it easy to evade the law.

We are asked now to close off the escape routes.

The proposed legislation I introduce today will do this effectively and in doing so will provide the basis for airtight local control as well.

It will wipe out all mail-order sales to individuals.

It will stop retail sales everywhere to juveniles under 21, except that sales of sporting rifles and shotguns could continue to persons over 18 years of age.

It will dry up the torrent of imported surplus weapons.

It will rigidly control the availability of bazookas, antitank guns, grenades, bombs, and other such deadly playthings now turning up regularly in American cities and towns.

At present, one can buy anything he wishes. He can cross the Potomac River and go into Alexandria. There is a company there which, if one wished to purchase an antitank gun, a mortar, a cannon, or a machinegun, he puts down the money and it will be available that afternoon. This kind of equipment is being bought and sold every day all over this land. There must be hundreds of thousands of those weapons in the possession

of American citizens—many of whom should not be allowed to own even a cap pistol.

It will drive out the fly-by-night gun dealers and limit the field to responsible stable businessmen.

I endorse these measures fully and will do all that I can to hasten their passage.

Mr. President, my critics charge me with being antigun and antisport. I am not hostile to the use of guns. I am not indifferent to the problems of arms manufacturers and arms merchants.

I happen to own guns. I own rifles, guns, and handguns. I have done so for many years.

However, I believe that I know how to use them. I have been a hunter. I have hunted for years—not always successfully on many occasions, but I know how to hunt and I understand the use of weapons.

I have taught my four sons to become interested in the sport, and have shown them how to handle guns and to do so responsibly.

My State of Connecticut is a sportsman's State. The finest manufacturers of firearms are located in Connecticut. The Winchester rifle is made in Connecticut. The Remington rifle is made in Connecticut. The Colt pistol is made in Connecticut. Therefore, I have a great deal of interest in the firearms industry. The livelihood of thousands of people in my State of Connecticut depend upon the production and sale of firearms. I am not against them, or the work that they do. I am well aware of the fine contributions that the industry and its workers have made to our country in time of war. It has been an heroic contribution. I would do nothing to endanger their livelihood.

I know that the President shares this concern for the welfare of the legitimate gun industry and of sportsmen everywhere.

The laws which the President has proposed and which I introduce today seek to safeguard the legitimate use of weapons by outlawing the abuse of weapons.

So I ask that all who form a part of the arms industry, manufacturers, dealers and users, join with us in this effort to surround the legitimate use of firearms with controls that are humane, sane and civilized, that treat the possession of weapons as a high responsibility, and that regard human life as a sacred thing to be protected at all costs.

Mr. President, in view of the increasing evidence of the major role the firearm plays in our crime picture, and in view of the obvious success of strong gun controls, I urge my colleagues in the Senate to give high priority to moving this legislation on to the President's desk.

Mr. President, I ask unanimous consent that these bills may lie on the table for 1 week, so that those who wish to cosponsor the proposed legislation will have an opportunity to do so.

The PRESIDING OFFICER. The bills will be received and appropriately referred. The bills will also lie on the desk for 1 week, as suggested by the Senator from Connecticut.

The bills, introduced by Mr. Dodd, were received, read twice by their titles, and referred, as indicated:

S. 1591. A bill to amend the National Firearms Act to impose special (occupational) taxes with respect to engaging in the business of importing, manufacturing, and dealing in destructive weapons such as bombs, grenades, rockets, missiles, bazookas, and anti-tank guns, to impose taxes with respect to the making and to the transfer of such weapons, and to increase the rates of special (occupational) tax, transfer tax, and making tax imposed by the act, and for other purposes; to the Committee on Finance.

EXHIBIT 1

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) Paragraph (1) of section 5848 of the Internal Revenue Code of 1954 is amended by inserting after "or a machinegun," the words "or a destructive device,"

(b) Paragraph (2) of section 5848 of the Internal Revenue Code of 1954 is amended by inserting after the words "or is designed to shoot," the words "or which can readily be restored to shoot," and by striking out the period at the end thereof, and inserting after the word "trigger" the words "and shall include (A) the frame or receiver of any such weapon, and (B) any combination of parts designed and intended for use in converting a weapon, other than a machinegun, into a machinegun."

(c) Section 5848 of the Internal Revenue Code of 1954 is amended by renumbering paragraphs (3), (4), (5), (6), (7), (8), (9), (10), and (11) as paragraphs (4), (5), (6), (7), (8), (9), (10), (11), and (12) respectively, and by inserting after paragraph (2) a new paragraph (3) as follows:

"(3) The term 'destructive device' means any explosive or incendiary (a) bomb or (b) grenade or (c) rocket or (d) missile or (e) similar device, or launching device therefor (except a device which is not designed or redesigned or used or intended for use as a weapon or part thereof); and the term shall also include any type of weapon by whatsoever name known (other than a shotgun having a barrel or barrels of eighteen or more inches in length), which will, or which is designed to, or which may be readily converted to, expel a projectile or projectiles by the action of an explosive, the barrel or barrels of which have a bore of one-half inch or more in diameter: *Provided*, That, the Secretary or his delegate may exclude from this definition any device which he finds is not likely to be used as a weapon."

(d) Paragraph (4) of section 5848 of the Internal Revenue Code of 1954 (as renumbered) is amended by striking out the period at the end thereof and inserting the word "and shall include the frame or receiver of any such weapon, and any such weapon which can readily be restored to firing condition."

(e) Paragraph (5) of section 5848 of the Internal Revenue Code of 1954 (as renumbered) is amended by striking out the period at the end thereof and inserting the word "and shall include the frame or receiver of any such weapon, and any such weapon which can readily be restored to firing condition."

Sec. 2. Wherever in chapter 53 of the Internal Revenue Code of 1954 a tax is imposed, the rate of such tax shall be twice the rate in effect on the day before the day this Act takes effect. However, as to the special taxes imposed under section 5801 of such Code, the increased rates shall not take effect until the first day of July following the date of enactment of this Act.

Sec. 3. (a) Subsection (a) of section 5814 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new sentence: "At the same time that a person forwards a copy of the order form to the Secretary or his delegate as required under subsection (b), he shall forward a copy of the order form to the principal

pal law enforcement officer of the locality wherein he resides."

(b) Subsection (a) of section 5814 of the Internal Revenue Code of 1954 is amended by striking out the words "in duplicate" and inserting in lieu thereof the words "in triplicate".

(c) Subsection (e) of section 5821 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following new sentence: "At the same time that the person making the declaration forwards the declaration to the Secretary or his delegate, he shall forward a copy thereof to the principal law enforcement officer of the locality wherein he resides."

(d) Section 5843 of the Internal Revenue Code of 1954 is amended by inserting at the end thereof the following sentence:

"If a firearm (possessed by a person other than an importer or manufacturer) does not bear the proper identification, the possessor thereof shall identify the firearm with such number and other identification marks as may be designated by the Secretary or his delegate, in a manner approved by the Secretary or his delegate."

Sec. 4. (a) Subchapter B of chapter 53 of the Internal Revenue Code of 1954 is amended by adding at the end thereof a new section 5850 as follows:

"Sec. 5850. Mutual Security Act of 1954.— Nothing in this chapter shall be construed as modifying or affecting the requirements of section 414 of the Mutual Security Act of 1954, as amended, with respect to the manufacture, exportation, and importation of arms, ammunition, and implements of war."

(b) The table of sections in subchapter B of chapter 53 of the Internal Revenue Code of 1954 is amended by adding at the end thereof:

"Sec. 5850. Mutual Security Act of 1954."

Sec. 5. (a) The proviso in paragraph (3) of subsection (a) of section 5801 of the Internal Revenue Code of 1954 is amended by striking out the words "under section 5848(5)" and inserting in lieu thereof the words "under section 5848(6)".

(b) The proviso in subsection (a) of section 5811 of the Internal Revenue Code of 1954 is amended by striking out the words "under section 5848(5)" and inserting in lieu thereof the words "under section 5848(6)".

Sec. 6. (a) This Act shall take effect on the first day of the second month following the month in which it is enacted.

(b) Notwithstanding the provisions of subsection (a), any person required to register a firearm under the provisions of section 5841 of the Internal Revenue Code of 1954 by reason of the amendments to section 5848 of such Code contained in the first section of this Act, shall have 30 days from the effective date of this Act to register such firearm, and no liability (criminal or otherwise) shall be incurred in respect to failure to so register under such section prior to the expiration of such 30 days.

The analysis of Senate bill 1591, presented by Mr. Dodd, is as follows:

EXPLANATION OF BILL TO AMEND THE NATIONAL FIREARMS ACT

Under the bill, the scope of the National Firearms Act (which now covers gangster-type weapons such as machineguns, sawed-off shotguns, and deceptive weapons such as flashlight guns, fountain pen guns, etc.) would be broadened to include destructive devices such as explosive or incendiary (1) bombs, (2) grenades, (3) rockets, (4) missiles, or (5) similar weapons, as well as large caliber weapons such as mortars, antitank guns, bazookas, etc. This would mean that such weapons would be subject to all provisions of the act and that persons engaging in business as importers, manufacturers, and dealers in such weapons would be required to register and pay special (occupational)

tax. Also, the taxes applicable in respect of the making and transfer of weapons such as machineguns would be applicable with respect to the making and transfer of such destructive devices. Also, it would be unlawful for a person to possess a destructive device of this character unless such device was registered with the Secretary of the Treasury.

The bill would also increase to twice the present rate all of the rates of tax in the National Firearms Act (ch. 53 of the Internal Revenue Code of 1954). The principal rates have not been changed since the original enactment of the act in 1934. Therefore, it is necessary to increase the rates in order to carry out the purposes of the act.

In addition, the bill contains certain additional strengthening and clarifying amendments to the National Firearms Act.

SECTION-BY-SECTION ANALYSIS

Section 1: This section would amend section 5848 of the Internal Revenue Code of 1954 which is the section of the National Firearms Act containing the definition of the weapons subject to the act (ch. 53 of the Internal Revenue Code as cited as the National Firearms Act).

Paragraph (a): Paragraph (a) of section 1 would amend paragraph (1) of section 5848 of the Internal Revenue Code of 1954 to include destructive devices within the term "firearms", as used in the National Firearms Act. The effect of this is to make the provisions of the act applicable to a "destructive device" as that term is defined in paragraph (c) of section 1 of the draft bill.

Paragraph (b): Paragraph (b) of section 1 would amend paragraph (2) of section 5848 of the Internal Revenue Code of 1954 (which is the definition of "machinegun" contained in the National Firearms Act) to include any weapon "which can readily be restored to shoot" automatically or semiautomatically (more than one shot), without manual reloading, by a single function of the trigger. This is merely a clarification of the law and represents the administrative construction of existing law.

The definition of machinegun would be further amended to include "the frame or receiver" of a machinegun. Under the Federal Firearms Act, the frame or receiver of a firearm is included within the definition of a firearm. This change would bring the frame or receiver of a machinegun within the coverage of the National Firearms Act.

The definition of machinegun is further amended to include "any combination of parts designed and intended for use in converting a weapon, other than a machinegun, into a machinegun." For example, so-called conversion kits are now made and sold for the purpose of converting certain rifles so that they will fire automatically or semiautomatically more than one shot, without manual reloading, by a single function of the trigger (i.e., converting such rifles into machineguns). However, under existing law, there is no effective way to control the manufacture and transfer of such kits. This change is designed to correct this situation and to prevent subversion of the purposes of the act.

Paragraph (c): Paragraph (c) of section 1 provides for the renumbering of paragraphs (3) through (11) as paragraphs (4) through (12), respectively, of section 5848 of the Internal Revenue Code of 1954, and for the insertion after paragraph (2) of such section of the Code of 1954, and for the insertion after paragraph (2) of such section of the code of a new paragraph (3). The new paragraph (3) would insert a definition of the term "destructive device".

The definition of the term "destructive device" contained in paragraph (3) of section 5848 of the Internal Revenue Code of 1954, as contained in the bill is a new provi-

sion. It would bring under the coverage of the National Firearms Act any explosive or incendiary (a) grenade or (b) bomb or (c) rocket or (d) missile or (e) similar weapon, or launching device therefor (except devices which are not designed or redesigned or used or intended for use as a weapon), and would include all large caliber weapons such as bazookas, mortars, antitank guns, etc.

The parenthetical exception contained in this definition is drafted in the same manner as the exceptions contained in title 26, United States Code, section 5179(a) (relating to registration of stills) and section 5205(a)(2) (relating to stamps on containers of distilled spirits). Therefore, the decisions of the courts (*Queen v. United States*, 77 F. 2d 780; cert. den. 295 U.S. 755; and *Scherr v. United States*, 305 U.S. 251) to the effect that the Government is not required to allege or prove the matter contained in an exception would be applicable. Establishment by a person that he came within the exception would be a matter of affirmative defense. Thus, an explosive device shown to be designed and intended for lawful use in construction or for other industrial purposes would be excepted. However, if the device were designed or used or intended for use as a weapon, it would be subject to the provisions of the act.

A provision has been made in this definition that the Secretary may exclude from the definition any device which he finds is not likely to be used as a weapon. Examples of devices which may be excluded from this definition are devices such as Very pistols and other signaling devices and line-throwing appliances (required for commercial vessels by U.S. Coast Guard regulations) which may have been made from converted firearms. This provision also makes it possible to deal with any other comparable situation which may arise, such as old cannon or field pieces which are primarily of historical significance and with respect to which there is no reasonable likelihood that they will be used as weapons.

Paragraph (d): Paragraph (d) of section 1 would amend paragraph (4) (as renumbered) of section 5848 of the Internal Revenue Code of 1954 by striking out the period at the end thereof and inserting the words ", and shall include the frame or receiver of any such weapon, and any such weapon which can readily be restored to firing condition." The effect of this change is to include the frame or receiver of a rifle within the definition of that term as used in the National Firearms Act. This change is comparable to the corresponding change in the definition of "machinegun" contained in paragraph (b) of this section. The inclusion in the definition of the language ", and any such weapon which can readily be restored to firing condition" represents a clarification of law and is consistent with the administrative construction of existing law.

Paragraph (e): Paragraph (e) of section 1 would amend paragraph (5) (as renumbered) of section 5848 of the Internal Revenue Code of 1954. This paragraph contains the definition of the term "shotgun" and the change is identical with the change made with respect to the definition of "rifle" referred to in paragraph (d) above.

Section 2: Section 2 would amend chapter 53 of the Internal Revenue Code of 1954 by providing that, "Wherever in such chapter a tax is imposed, the rate of tax shall be twice the rate in effect on the day before the day this act takes effect."

However, as to the special (occupational) taxes imposed under section 5801 of the Internal Revenue Code of 1954, the increased rates would not take effect until the first day of July following the date of enactment.

The effect of this section would be:

1. To increase the special (occupational) tax imposed under section 5801(a)(1) in respect of importers or manufacturers from \$500 a year or fraction thereof to \$1,000 a year or fraction thereof;

2. To increase the special (occupational) tax imposed under section 5801(a)(2) in respect of dealers (other than pawnbrokers) from \$200 a year or fraction thereof, to \$400 a year or fraction thereof;

3. To increase the tax imposed under section 5801(a)(3) in respect of pawnbroker dealers from \$300 a year or fraction thereof to \$600 a year or fraction thereof;

4. To increase the special (occupational) tax imposed under section 5801(a)(3) in respect to manufacturers and dealers in guns classified as "any other weapon" and certain guns with combination shotgun and rifle barrels from \$25 a year or fraction thereof in the case of manufacturers to \$50 a year or fraction thereof, and with respect to dealers from \$10 a year or fraction thereof to \$20 a year or fraction thereof;

5. To increase the transfer tax levied under section 5811(a) on the transfer of machine-guns, sawed-off shotguns, destructive devices, etc., from \$200 for each such weapon transferred in the United States to \$400 for each such weapon so transferred;

6. To increase the transfer tax levied under section 5811(a) on the transfer of "any other weapon" and certain guns with combination shotgun and rifle barrels from \$5 for each firearm transferred in the United States to \$10 for each such weapon so transferred; and

7. To increase the tax imposed under section 5821(a) on the making of any firearm subject to the National Firearms Act (by persons other than those excepted from the making tax) from \$200 for each firearm so made to \$400 for each firearm.

It should be noted that section 2 would in no way effect exemptions and exceptions contained in the National Firearms Act with respect to these taxes. (See secs. 5803, 5812, and 5821(b) in this regard.)

The principal rates have not changed since the original enactment of the National Firearms Act in 1934. It is deemed necessary to increase the rates of tax imposed in the National Firearms Act in order to more effectively carry out the purposes of the act.

Section 3: Paragraph (a) of section 3 would amend subsection (a) of section 5814 of the Internal Revenue Code of 1954 by adding at the end thereof a new sentence which would provide that at the same time a person forwards a copy of the order form regarding transfer of a firearm to the Secretary or his delegate, as required by subsection (b) of section 5814, he shall forward a copy of the order form to the principal law enforcement officer of the locality wherein he resides. This is intended as an additional requirement and not as a substitute for existing procedures regarding verification of the identity of the applicant.

Paragraph (b) of section 3 is a conforming change relating to the amendment contained in paragraph 3(a) and relates to the number of copies of the order form.

Paragraph (c) of section 3 would amend subsection (e) of section 5821 of the Internal Revenue Code of 1954 by adding at the end thereof a new sentence providing that at the same time a person making the declaration in respect of making a firearms forwards the declaration to the Secretary or his delegate, he shall forward a copy thereof to the principal law enforcement officer of the locality wherein he resides. This provision is intended to be in addition to any other existing procedures, and not as a substitute for the procedures requiring verification of the identity of the person making the declaration.

Paragraph (d) of section 3 would amend section 5843 of the Internal Revenue Code of 1954 (which relates to the identification of firearms) by inserting at the end thereof a new sentence. This provision is intended to provide for the identification of a firearm (possessed by a person other than a manufacturer or importer) which does not bear the proper identification.

Section 4: Section 4 of the bill would add a new section 5850 to subchapter B of chapter 53 of the Internal Revenue Code of 1954 which would provide that "Nothing in this chapter shall be construed as modifying or affecting the requirements of section 414 of the Mutual Security Act of 1954, as amended, with respect to the manufacture, exportation, and importation of arms, ammunition, and implements of war."

This provision is merely for the purpose of assuring that the chapter will be so construed.

Section 5: Section 5 of the bill contains technical conforming changes with respect to sections 5801 and 5811 of the Internal Revenue Code of 1954 made necessary by reason of the renumbering of the paragraph containing the definition of "any other weapon" in section 5848 of the Internal Revenue Code of 1954.

Section 6: This section contains the effective date provisions.

Subsection (a): This subsection provides that this act shall take effect on the first day of the second month following the month it is enacted.

Subsection (b): This subsection provides that, notwithstanding the provisions of subsection (a), any person required to register a firearm under the provisions of section 5841 of the Internal Revenue Code of 1954, by reason of the amendments to section 5848 of such code contained in the first section of this act shall have 30 days from the effective date of this act to register such firearms, and that no liability (criminal or otherwise) shall be incurred in respect to failure to so register under such section prior to the expiration of such 30 days. This provision is necessary so that a person who possesses a firearm which is brought under this coverage of the National Firearms Act, by reason of the amendments to such act which are contained in the first section of the bill, will be afforded a reasonable opportunity to comply with the registration requirements contained in section 5841 of the Internal Revenue Code of 1954. However, full compliance with all other provisions of the National Firearms Act, as amended by this bill, would be required commencing on the effective date provided in subsection (a). For example, the provisions relating to the making of a firearm, to the transfer of a firearm, and to the importation of a firearm would be fully effective as of the date specified in subsection (a).

S. 1592. A bill to amend the Federal Firearms Act; to the Committee on the Judiciary.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first section of the Federal Firearms Act (52 Stat. 1250) is amended to read as follows:

"SEC. 1. DEFINITIONS. As used in this Act—

"(1) The term 'person' includes an individual, partnership, association, or corporation.

"(2) The term 'interstate or foreign commerce' means commerce between any State or possession (not including the Canal Zone) and any place outside thereof; or between points within the same State or possession (not including the Canal Zone), but through any place outside thereof; or within any possession or the District of Columbia. The term 'State' shall include the Commonwealth of

Puerto Rico, the Virgin Islands, and the District of Columbia.

"(3) The term 'firearm' means any weapon, by whatsoever name known, which will, or is designed to, or which may be readily converted to, expel a projectile or projectiles by the action of an explosive; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer; or any destructive device.

"(4) The term 'destructive device' means any explosive or incendiary (a) bomb or (b) grenade or (c) rocket or (d) missile or (e) similar device, or launching device therefor (except a device which is not designed or redesigned or used or intended for use as a weapon or part thereof); and the term shall also include any type of weapon by whatsoever name known (other than a shotgun having a barrel or barrels of eighteen or more inches in length), which will, or which is designed to, or which may be readily converted to, expel a projectile or projectiles by the action of an explosive, the barrel or barrels of which have a bore of one-half inch or more in diameter: *Provided*, That the Secretary may exclude from this definition any device which he finds is not likely to be used as a weapon.

"(5) The term 'short-barreled shotgun' means a shotgun having a barrel or barrels of less than eighteen inches in length and any weapon made from a shotgun (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than twenty-six inches.

"(6) The term 'short-barreled rifle' means a rifle having a barrel or barrels of less than sixteen inches in length, and any weapon made from a rifle (whether by alteration, modification, or otherwise) if such weapon as modified has an overall length of less than twenty-six inches.

"(7) The term 'importer' means any person engaged in the business of importing or bringing firearms or ammunition into the United States for purposes of sale or distribution; and the term 'licensed importer' means any such person licensed under the provisions of this Act.

"(8) The term 'manufacturer' means any person engaged in the manufacture of firearms or ammunition for purposes of sale or distribution; and the term 'licensed manufacturer' means any such person licensed under the provisions of this Act.

"(9) The term 'dealer' means (a) any person engaged in the business of selling firearms or ammunition at wholesale or retail, (b) any person engaged in the business of repairing such firearms or of making or fitting special barrels, stocks, or trigger mechanisms to firearms, or (c) any person who is a pawnbroker. The term 'licensed dealer' means any dealer who is licensed under the provisions of this Act.

"(10) The term 'pawnbroker' means any person whose business or occupation includes the taking or receiving, by way of pledge or pawn, of any firearm or ammunition as security for the payment or repayment of money.

"(11) The term 'indictment' includes an indictment or an information in any court of the United States or of any State or possession under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted.

"(12) The term 'fugitive from justice' means any person who has fled from any State or possession (a) to avoid prosecution for a crime punishable by imprisonment for a term exceeding one year, or (b) to avoid giving testimony in any criminal proceeding.

"(13) The term 'crime punishable by imprisonment for a term exceeding one year' shall not include any Federal or State offenses pertaining to anti-trust violations,

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unfair trade practices, restraints of trade, or other similar offenses relating to the regulation of business practices as the Secretary may by regulation designate.

"(14) The term 'Secretary' or 'Secretary of the Treasury' means the Secretary of the Treasury or his delegate.

"(15) The term 'ammunition' means pistol or revolver ammunition, ammunition for a destructive device, and ammunition for a machinegun or rifle."

Sec. 2. Section 2 of the Federal Firearms Act is amended to read as follows:

"Sec. 2. UNLAWFUL ACTS. (a) It shall be unlawful for any person (except an importer, manufacturer, or dealer, licensed under the provisions of this Act) to transport, ship, or receive any firearms in interstate or foreign commerce, except—

"(1) That in the case of a shotgun or rifle (other than a short-barreled shotgun or short-barreled rifle) nothing in this subsection shall be held to preclude an individual traveling in interstate or foreign commerce from transporting such shotgun or rifle (or having such shotgun or rifle transported for him under such conditions as the Secretary shall by regulations prescribe), if such transportation is for a lawful purpose.

"(2) That in the case of a pistol or revolver, nothing in this subsection shall be held to preclude an individual traveling in interstate or foreign commerce from transporting a pistol or revolver, possessed and carried in conformity with the law of each particular State into (or through) which the pistol or revolver is transported (or having the pistol or revolver transported for him under such conditions as the Secretary or his delegate shall by regulations prescribe), if (A) the transportation is for a lawful purpose not including sale or other disposition thereof, and (B) such individual did not acquire the pistol or revolver in the course of such traveling in interstate or foreign commerce.

"(3) That in the case of a shotgun or rifle (other than a short-barreled shotgun or short-barreled rifle) or a pistol or revolver, nothing in this subsection shall be held to preclude a person from shipping such a firearm to a licensed importer, licensed manufacturer, or licensed dealer for authorized service and the return of such firearm to the sender under such conditions as the Secretary shall by regulations prescribe.

"(4) That nothing in this subsection shall be construed as making unlawful the shipping or transporting of a firearm in interstate or foreign commerce, by a common or contract carrier in the operation of his business or by United States mail, to a licensed importer, licensed manufacturer, or licensed dealer (or such transportation as is otherwise authorized under this Act).

"(5) That nothing in this subsection shall be construed as applying in any manner in the District of Columbia, the Commonwealth of Puerto Rico, or any possession of the United States differently than it would apply if the District of Columbia, the Commonwealth of Puerto Rico, or the possession were a State of the United States.

"(b) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell or otherwise dispose of any firearm to any person—

"(1) Without following the required procedures for ascertaining (in such a manner as the Secretary shall by regulations prescribe) the identity and place of residence (or business in the case of a corporation or other business entity) of such person; or

"(2) Who (in the case of an individual) is under 21 years of age (except for a shotgun or rifle), and under 18 years of age in the case of a shotgun or rifle; or

"(3) Who he knows or has reasonable cause to believe is not a resident of (or in the case of a corporation or other business entity, who does not have a place of business in) the State in which the importer's, manufac-

turer's, or dealer's place of business is located; except that this paragraph shall not apply in the case of a shotgun or rifle (other than a short-barreled shotgun or short-barreled rifle); or

"(4) Who by reason of any State or local law, regulation, or ordinance applicable at the place of sale or other disposition may not lawfully receive or possess such firearm."

This subsection shall not apply in the case of transactions between licensed importers, licensed manufacturers, and licensed dealers.

"(c) It shall be unlawful for any licensed importer, licensed manufacturer, or licensed dealer to sell or otherwise dispose of any firearm or ammunition to any person (other than a licensee) knowing or having reasonable cause to believe that such person is under indictment or has been convicted in any court of the United States or of any State or possession of a crime punishable by imprisonment for a term exceeding one year or is a fugitive from justice; or to ship or transport any firearm in interstate or foreign commerce to any person who may not lawfully receive such firearm under subsection (a).

"(d) It shall be unlawful for any person who is under indictment or who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, or who is a fugitive from justice, to ship, transport, or cause to be shipped or transported, any firearm or ammunition in interstate or foreign commerce.

"(e) It shall be unlawful for any person who is under indictment or who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year, or is a fugitive from justice, to receive any firearm or ammunition which has been shipped or transported in interstate or foreign commerce.

"(f) It shall be unlawful for any person knowingly to deposit, or cause to be deposited for mailing or delivery by mail, or knowingly to deliver, or cause to be delivered, to any common or contract carrier for transportation or shipment in interstate or foreign commerce, any package or other container in which there is any firearm, without written notice to the Postmaster General or his delegate or to the carrier (as the case may be) that a firearm is being transported or shipped.

"(g) It shall be unlawful for any common or contract carrier to deliver, or cause to be delivered, in interstate or foreign commerce, any firearm to any person who does not exhibit or produce evidence of a license obtained under section 3 of this Act or who is not exempted by section 4 from the provisions of this Act (except a firearm transported under regulations prescribed under section 2(a) (1), (2), or (3) of this Act).

"(h) It shall be unlawful for any person to transport or ship, or cause to be transported or shipped, in interstate or foreign commerce, any stolen firearm, or stolen ammunition knowing, or having reasonable cause to believe, same to have been stolen.

"(i) It shall be unlawful for any person to receive, conceal, store, barter, sell, or dispose of any stolen firearm or stolen ammunition or pledge or accept as security for a loan any stolen firearm or stolen ammunition, moving as, or which is a part of, or which constitutes interstate or foreign commerce, knowing, or having reasonable cause to believe, the same to have been stolen.

"(j) It shall be unlawful for any person to transport, ship, or knowingly receive, in interstate or foreign commerce, any firearm from which the importer's or manufacturer's serial number, as the case may be, has been removed, obliterated, or altered.

"(k) It shall be unlawful for any person to import or bring into the United States or any possession thereof any firearm in violation of the provisions of this Act, or to import or bring into the United States or

any possession thereof any ammunition for a destructive device.

"(1) It shall be unlawful for any person to knowingly receive any firearm or ammunition which has been imported or brought into the United States or any possession thereof in violation of the provisions of this Act."

Sec. 3. Section 3 of the Federal Firearms Act is amended to read as follows:

"Sec. 3. (a) No person shall engage in business as a firearms or ammunition importer, manufacturer, or dealer until he has filed an application with, and received a license to do so from, the Secretary. The application shall be in such form and contain such information as the Secretary shall by regulations prescribe. Each applicant shall be required to pay a fee for obtaining such license (for each place of business) as follows:

"(1) If a manufacturer—

"(A) of destructive devices, a fee of \$1,000 per annum.

"(B) of firearms (other than destructive devices), a fee of \$500 per annum.

"(2) If an importer—

"(A) of destructive devices, a fee of \$1,000 per annum.

"(B) of firearms (other than destructive devices), a fee of \$500 per annum.

"(3) If a dealer—

"(A) in destructive devices, a fee of \$1,000 per annum.

"(B) who is a pawnbroker (dealing in firearms other than destructive devices), a fee of \$250 per annum.

"(c) In firearms (other than as described in subparagraphs (A) or (B)), a fee of \$100 per annum.

The fee for an importer or manufacturer of, or a dealer in, ammunition for a destructive device shall be the same as for an importer or manufacturer of, or a dealer in destructive devices, and the fee for an importer or manufacturer of, or a dealer in other firearms ammunition shall be the same as for an importer or manufacturer of or a dealer in such firearms. However, a person who has obtained a license covering firearms shall not be required to obtain an additional license with respect to ammunition.

"(b) Upon filing by an applicant of the prescribed application and payment of the prescribed fee, the Secretary shall (except as provided in subsection (c)), issue to such applicant the license applied for, which shall, subject to the provisions of this Act and other applicable provisions of law, entitle the licensee to transport, ship, and receive firearms and ammunition covered by such license in interstate or foreign commerce during the period stated in the license.

"(c) Any application submitted under subsections (a) and (b) of this section shall be disapproved and the license denied if the Secretary, after notice and opportunity for hearing, finds that—

"(1) The applicant is under 21 years of age, or

"(2) The applicant (including in the case of a corporation, partnership, or association, any individual possessing directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association) is prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under the provisions of subsection (d) or (e) of section 2 of this Act; or is, by reason of his business experience, financial standing, or trade connections, not likely to maintain operations in compliance with this Act, or

"(3) The applicant has willfully violated any of the provisions of this Act or the regulations issued thereunder, or

"(4) The applicant has willfully failed to disclose any material information required or made any false statement as to any mate-

rial fact, in connection with his application, or

"(5) The applicant does not have, or does not intend to have or to maintain, in a State or possession, business premises for the conduct of the business.

"(d) The provisions of section 2(d) and (e) of this Act shall not apply in the case of a licensed importer, licensed manufacturer, or licensed dealer who is indicted for a crime punishable by imprisonment for a term exceeding one year. A licensed importer, licensed manufacturer, or licensed dealer may continue operations, pursuant to his existing license (provided that prior to the expiration of the term of the existing license timely application is made for a new license), during the term of such indictment and until any conviction pursuant to the indictment becomes final, whereupon he shall be fully subject to all provisions of this Act and operations pursuant to such license shall be discontinued, (unless an application for relief has been filed under section 6).

"(e) No person shall import or bring any firearm into the United States or any possession thereof, except that the Secretary may authorize a firearm to be imported or brought in if the person importing or bringing in the firearm established to the satisfaction of the Secretary that the firearm—

"(1) Is being imported or brought in for scientific or research purposes, or is for use in connection with competition or training pursuant to chapter 401 of title 10 of the United States Code; or

"(2) Is (A) an antique, or (B) an un-serviceable firearm (not readily restorable to firing condition), imported or brought in as a curio or museum piece; or

"(3) Is of a type and quality generally recognized as particularly suitable for lawful sporting purposes and is not a surplus military weapon and that the importation or bringing in of the firearm would not be contrary to the public interest; or

"(4) Was previously taken out of the United States or a possession by the person who is bringing in the firearm.

"Provided, That the Secretary may permit the conditional importation or bringing in of a firearm for examination and testing in connection with the making of a determination as to whether the importation or bringing in of such firearm will be allowed under this subsection.

"(f) No licensed importer, licensed manufacturer, or licensed dealer shall sell or otherwise dispose of a destructive device, a machine gun (as defined in section 5848 of the Internal Revenue Code of 1954), a short-barreled shotgun, or a short-barreled rifle, to a non-licensee unless he has in his possession a sworn statement executed by the principal law enforcement officer of the locality wherein the purchaser or person to whom it is otherwise disposed of resides, attesting that there is no provision of law, regulation, or ordinance which would be violated by such person's receipt or possession thereof and that he is satisfied that it is intended by such person for lawful purposes. Such sworn statement shall be retained by the licensee as a part of the records required to be kept under subsection (g).

"(g) Each licensed importer, licensed manufacturer, and licensed dealer shall maintain such records of importation, production, shipment, receipt, and sale and other disposition, of firearms and ammunition at such place, for such period and in such form as the Secretary may by regulations prescribe. Such importers, manufacturers, and dealers shall make such records available for inspection at all reasonable times, and shall submit to the Secretary such reports and information with respect to such records and the contents thereof as he shall by regulations prescribe. The Secretary or his delegate may enter during business hours the premises (including places of storage) of any

firearms or ammunition importer, manufacturer, or dealer for the purpose of inspecting or examining any records or documents required to be kept by such importer or manufacturer or dealer under the provisions of this Act or regulations issued pursuant thereto, and any firearms or ammunition kept or stored by such importer, manufacturer, or dealer at such premises. Upon the request of any State or possession or political subdivision thereof, the Secretary of the Treasury may make available to such State, or possession, or any political subdivision thereof, any information which he may possess or which he may obtain by reason of the provisions of this Act with respect to the identification of persons within such State, or possession, or political subdivision thereof, who have purchased or received firearms or ammunition, together with a description of the firearms or ammunition so purchased or received.

"(h) Licenses issued under the provisions of subsection (c) of this section shall be kept posted and kept available for inspection on the business premises covered by the license.

"(i) Licensed importers and licensed manufacturers shall identify (or cause to be identified), in such manner as the Secretary shall by regulations prescribe, each firearm imported or manufactured by such importer or manufacturer."

Sec. 4. Section 4 of the Federal Firearms Act is amended to read as follows:

"SEC. 4. EXCEPTIONS TO APPLICABILITY OF THE ACT.

"The provisions of this Act shall not apply with respect to the transportation, shipment, receipt, or importation of any firearms or ammunition imported for, or sold or shipped to, or issued for the use of (1) the United States or any department, independent establishment, or agency thereof; or (2) any State, or possession, or any department, independent establishment, agency, or any political subdivision thereof."

Sec. 5. Subsection (b) of section 5 of the Federal Firearms Act is amended to read as follows:

"(b) Any firearm or ammunition involved in, or used or intended to be used in, any violation of the provisions of this Act, or any rules or regulations promulgated thereunder, or any violation of the provisions of title 18 United States Code, sections 111, 112, 372, 371, or 1114, shall be subject to seizure and forfeiture and all provisions of the Internal Revenue Code of 1954 relating to the seizure, forfeiture, and disposition of firearms, as defined in section 5848(1) of said Code, shall, so far as applicable, extend to seizures and forfeitures under the provisions of this Act."

Sec. 6. The Federal Firearms Act is amended by renumbering sections 6, 7, 8, and 9 as sections 8, 9, 10, and 11, respectively, and inserting after section 5 the following new sections:

"SEC. 6. RELIEF OF CONVICTED PERSONS UNDER CERTAIN CONDITIONS.

"A person who has been convicted of a crime punishable by imprisonment for a term exceeding one year (other than a crime involving the use of a firearm or other weapon or a violation of this Act or of the National Firearms Act) may make application to the Secretary for relief from the disabilities under the Act incurred by reason of such conviction, and the Secretary may grant such relief if it is established to his satisfaction that the circumstances regarding the conviction, and the applicant's record and reputation are such that the applicant will not be likely to conduct his operations in an unlawful manner, and that the granting of the relief would not be contrary to the public interest. A licensee conducting operations under the Act, who makes application for re-

lief from the disabilities incurred under the Act by reason of such a conviction, shall not be barred by such conviction from further operations under his license pending final action on an application for relief filed pursuant to this section."

"SEC. 7. APPLICABILITY OF OTHER LAWS.

"(a) Nothing in this Act shall be construed as modifying or affecting any provision of—

"(1) The National Firearms Act (Chapter 53 of the Internal Revenue Code of 1954); or

"(2) Section 414 of the Mutual Security Act of 1954, as amended (section 1934 of title 22 of the United States Code, (relating to munitions control)); or

"(3) Section 1715 of title 18 of the United States Code (relating to nonmailable firearms).

"(b) Nothing in this Act shall confer any right or privilege to conduct any business contrary to the law of any State, or be construed as relieving any person from compliance with the law of any State."

Sec. 7. The amendments made by this Act shall become effective on the date of the enactment of this Act; except that the amendments made by section 3 of this Act to section 3(a) of the Federal Firearms Act shall not apply to any importer, manufacturer, or dealer licensed under the Federal Firearms Act on the date of the enactment of this Act until the expiration of the license held by such importer, manufacturer, or dealer on such date.

The explanation of Senate bill 1592, presented by Mr. DODD is as follows:

EXPLANATION OF BILL TO AMEND THE FEDERAL FIREARMS ACT

The bill is a general revision of the Federal Firearms Act, designed to more effectively control interstate and foreign commerce in firearms. The bill adheres to and furthers the principle inherent in the present act that interstate and foreign commerce in firearms be controlled at the Federal level under the commerce power in a manner which will enable the States to control more effectively the traffic within their own borders under their own police power.

The bill would, in general, make it illegal to transport, ship, or receive firearms in interstate or foreign commerce, except as between licensed importers, licensed manufacturers, or licensed dealers, or between such licensees and persons excepted from the application of the Federal Firearms Act by section 4 of that act (e.g., agencies of the Federal and State governments). Thus, under the bill, the so-called interstate mail-order traffic in firearms, whereby an individual can order a gun to be shipped from a mail-order dealer in another State, would be completely terminated.

Further, all sales by federally licensed importers, Federally-licensed manufacturers, and federally licensed dealers of shotguns and rifles to persons under 18 years of age, and of all other types of firearms to persons under 21 years of age, would be prohibited.

The bill is also designed to eliminate the serious abuses of the Federal Firearms Act license system inherent in the nominal license fee and weak qualifying requirement provisions of existing law, and to assure that persons licensed under the act are bona fide engaged in the business and are of good repute.

The bill would curb the flow of imports of surplus military weapons, and certain other firearms which are not particularly suitable for lawful sporting purposes.

Further, the bill would bring under strict Federal control interstate and foreign commerce in large caliber weapons such as bazookas, mortars, antitank guns, etc., and destructive devices such as explosive or incendiary (a) grenades or (b) bombs or (c) missiles or (d) rockets or (e) similar weapons.

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SECTION-BY-SECTION ANALYSIS

Section 1: This section would restate and amend section 1 of the Federal Firearms Act (52 Stat. 1250) which contains the definition of the meaning of certain terms used in the act.

The definition of the term "person" in paragraph (1) is existing law (15 U.S.C. 901(1)).

The definition of the term "interstate or foreign commerce" is a restatement of existing law (15 U.S.C. 901(a)). "Territory" is omitted since there is no "territory" at the present time. The last sentence of this definition is inserted to clarify the status of the Act in Puerto Rico, the Virgin Islands, and the District of Columbia.

The definition of the term "firearm" in paragraph (3) is a restatement and revision of the provisions of existing law (15 U.S.C. 901(3)). The revised definition has been extended to include any weapon by whatsoever name known "which will," or "which may be readily converted to," expel a projectile or projectiles by the action of an explosive. This represents a much needed clarification and strengthening of existing law designed to prevent circumvention of the purposes of the act. As under existing law, the definition also includes weapons "designed to" expel a projectile or projectiles by the action of an explosive, and firearm mufflers and firearm silencers.

The present definition of this term includes "any part or parts" of a firearm. It has been impractical to treat each small part of a firearm as if it were a weapon. The revised definition substitutes the words "frame or receiver" for the words "any part or parts."

In addition, the definition of the term "firearm" is extended to include any "destructive device" as defined in the proposed new definition of this term contained in paragraph (4) of section 1. The effect of this inclusion is to make the provisions of the act applicable to such destructive devices.

The definition of the term "destructive device" contained in paragraph (4) is a new provision. The purpose of this definition is twofold. First, it would bring under the terms of the act any explosive or incendiary (a) grenade or (b) bomb or (c) rocket or (d) missile or (e) similar weapon, or launching device therefor (except devices which are not designed or redesigned or used or intended for use as a weapon.) Second, the definition would include large caliber weapons such as bazookas, mortars, antitank guns, etc., in order that the more stringent controls applicable with respect to the traffic in destructive devices would be applicable with respect to such weapons.

The parenthetical exception contained in this definition is drafted in the same manner as the exceptions contained in 26 U.S.C. section 5179(a) (relating to registration of stills) and section 5205(a)(2) (relating to stamps on containers of distilled spirits). Therefore, the decisions of the courts (*Queen v. United States*, 77 F. 2d 780; cert. den. 295 U.S. 755; and *Scherr v. United States*; 305 U.S. 251) to the effect that the Government is not required to allege or prove matter contained in an exception would be applicable. Establishment by a person that he came within the exception would be a matter of affirmative defense. Thus, an explosive device shown to be designed and intended for lawful use in construction or for other industrial purposes would be excepted. However, if the device were designed or used or intended for use, as a weapon, it would be subject to the provisions of the act.

A provision has been made in this definition that the Secretary may exclude from the definition any device which he finds is not likely to be used as a weapon. Examples of devices which may be excluded from this definition are devices such as Very pistols

and other signaling devices and line-throwing appliances (required for commercial vessels by U.S. Coast Guard regulations) which may have been made from converted firearms. This provision also makes it possible to deal with any other comparable situation which may arise, such as old cannon or fieldpieces which are primarily of historical significance and with respect to which there is no reasonable likelihood that they will be used as a weapon.

The definition of the term "short-barreled shotgun" contained in paragraph (5) is a new provision. The definition describes a shotgun of the type which is subject to the provisions of the National Firearms Act (ch. 53 of the Internal Revenue Code of 1954). The purpose of the definition is to provide a convenient means of reference to weapons of this type.

The definition of the term "short-barreled rifle" contained in paragraph (6) is a new provision. The definition describes a rifle of the type which is subject to the provisions of the National Firearms Act (ch. 53 of the Internal Revenue Code of 1954). The purpose of the definition is to provide a convenient reference to weapons of this type.

The definition of the term "importer" is a new provision. Under existing law (15 U.S.C. 901(4)), the term "manufacturer" includes a person engaged in importation of firearms or ammunition for purposes of sale or distribution. It appears obvious that separate classifications should be provided for importers and manufacturers in order to more appropriately effectuate the purposes of the act.

The definition of the term "manufacturer" is a restatement of existing law (15 U.S.C. 904(4)) except that the references to importation have been deleted.

The definition of the term "dealer" is a restatement of existing law (15 U.S.C. 901(5)) with certain revisions. The definition also makes it clear that "pawnbrokers" are a type of dealer. This reflects proposed changes in other provisions of the act which would place pawnbrokers handling firearms in a special category and provide for higher license fees for procurement of licenses by pawnbroker dealers.

The definition of the term "pawnbroker" is a new provision. Pawnbroker dealers are covered under the provisions of the existing act in the same manner as other dealers. The purpose of this definition is to provide a basis for a separate classification of pawnbroker dealers. Under the provisions of the National Firearms Act (26 U.S.C., ch. 53), pawnbrokers are separately classified and charged a higher rate of special (occupational) tax than other dealers.

The definition of the term "indictment" is a new provision. Inasmuch as a person under indictment for certain crimes is proscribed from shipping or receiving firearms in interstate or foreign commerce, and a license under the act will not be issued to such a person, the definition will serve a useful purpose in making it clear that an "information" charging a crime is the same as an indictment charging a crime. This definition is in accord with the opinion of the court in *Quinones v. United States*, 161 F. 2d 79.

The definition of the term "fugitive from justice" is a restatement of existing law (15 U.S.C. 901(6)) with reference to "territory" omitted since there is at the present time no such territory.

The definition of the term "crime punishable by imprisonment for a term exceeding 1 year" is a new provision.

Prior to October 4, 1961, the Federal Firearms Act included provisions which made it unlawful for a person convicted of a crime of violence (as defined) in any court of the United States, a State, or possession, to

transport, ship, or receive any firearm in interstate or foreign commerce. S. 1750 (87th Cong., 1st sess.) amended the act by striking the definition of "crime of violence" and by striking that term wherever it appeared in the act and inserting in lieu thereof the term "crime punishable by imprisonment for a term exceeding 1 year." S. 1750 was introduced at the request of the Attorney General as an integral part of an anticrime legislative program. See House Report No. 1202 (87th Cong., 1st sess.). The felony criteria for prohibiting the transporting, shipping, or receiving of firearms incorporated in the act by S. 1750 has been retained to date.

However, the definition of "crime punishable by imprisonment for a term exceeding 1 year" proposed in the bill would modify the felony criteria by excluding antitrust-type violations. It may be noted that antitrust-type violations are not felonies under Federal law. However, a limited number of States have statutes making such offenses felonies. The definition would provide uniform treatment of such offenses, both State and Federal.

The definition of the term "Secretary" or "Secretary of the Treasury" contained in paragraph (12) is a new provision. The purpose of this definition is to eliminate the necessity of repeating "Secretary of the Treasury or his delegate" in several sections of the act.

The definition of the term "ammunition" contained in existing law (15 U.S.C. 901(7)) has been revised to include ammunition for a destructive device and ammunition for a machinegun or rifle in addition to pistol and revolver ammunition.

Section 2: Section 2 of the bill would amend section 2 of the Federal Firearms Act (15 U.S.C. 902), which relates to prohibited acts.

Subsection (a): Subsection (a) is derived in part from the provisions of existing law contained in subsections (a) and (b) of section 2 of the Federal Firearms Act (15 U.S.C. 902 (a) and (b)). Such provisions of existing law make it unlawful for any importer, manufacturer, or dealer, except an importer, manufacturer, or dealer licensed under the act, to transport, ship, or receive any firearm in interstate or foreign commerce, or for any person to receive any firearm transported or shipped in interstate or foreign commerce, by an unlicensed importer, manufacturer, or dealer.

The provisions of section 2(a) of the bill establish a general rule making it unlawful for any person, except an importer, manufacturer, or dealer licensed under the provisions of this act, to transport, ship, or receive firearms in interstate or foreign commerce. This would have the effect of channeling interstate and foreign commerce in firearms through licensed importers, licensed manufacturers, and licensed dealers, thereby prohibiting the so-called mail-order traffic in firearms to unlicensed persons. Thus, the several States could adequately deal with the sale and disposition of firearms within their own jurisdiction by the exercise of their police power granted to them under the Constitution.

The provisions of this subsection would not, of course, be applicable in respect to transactions with the persons excepted under the provisions of section 4 of the act (15 U.S.C. 904), such as Federal or State agencies. No specific exception is made in this section for the transactions with such persons, since such transactions are covered by section 4.

However, five specific exceptions are made to the general prohibitory provisions of subsection (a). These exceptions deal (1) with the transporting of certain types of firearm by individuals traveling in interstate or foreign commerce, (2) with the shipment of firearms to licensees under the act for authorized service and the return of such firearm

to the sender, (3) with the transportation of firearms by carriers, and (4) with the application of the subsection in the District of Columbia, the Commonwealth of Puerto Rico, and the possessions.

Exception (1) makes it possible for a person who is traveling in interstate or foreign commerce to carry with him his shotgun or rifle (other than a short-barrel shotgun or short-barreled rifle). The exception also makes it possible for an individual traveling in interstate or foreign commerce (such as persons moving his place of residence) to have his shotgun or rifle transported for him under such conditions as the Secretary shall by regulations prescribe. However, the transportation of the firearm by or for the individual must be for a lawful purpose.

The second exception, which is contained in paragraph (2), relates to the transporting of a pistol or revolver by an individual traveling in interstate or foreign commerce and to having the pistol or revolver transported for such an individual. The limitations with respect to the transportation of pistols and revolvers are more restrictive than with respect to the transportation of shotguns or rifles. The reasons for the more stringent limitations are twofold. First, the States and possessions in general have, under their police power, imposed more restrictions on the acquiring, possessing, or carrying of concealable weapons than have been imposed with respect to sporting-type firearms, such as shotguns and rifles. Second, the more restrictive limitations are also correlated to the provisions of subsection (b) of section 2 as contained in the bill, which would prohibit licensed importers, manufacturers, and dealers from selling a pistol or revolver to a person who is a nonresident of the State in which the licensee's place of business is located.

The effect of the provisions of paragraph (2) of this subsection, coupled with the provisions of subsection (b) of this section, is to require a person to procure his pistol or revolver in the State in which he resides, and if he transports the pistol or revolver across a State line, to comply with the law of each State into or through which he transports such pistol or revolver. Such provisions are designed to give meaning and effect to the laws of those States which have imposed requirements for the protection of their citizens with regard to the acquiring, possessing, or carrying of such firearms. The term "State" is defined in paragraph (2) of section 1 of the act as including the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

The third exception, contained in paragraph (3) of subsection (a), provides that, subject to such conditions as the Secretary may by regulations prescribe, a person may ship a firearm to a licensed importer, licensed manufacturer, or licensed dealer for authorized service and for the return of such firearm to the sender. However, it should be noted that this exception does not apply to any firearms which are subject to the provisions of the National Firearms Act. Such firearms can only be transported in interstate or foreign commerce between persons licensed under the act.

Paragraph (4) of this subsection provides an exception for the shipping or transporting of a firearm in interstate or foreign commerce by common or contract carrier between persons licensed under the act, and to and from licensees and persons exempted by section 4 of the act. This exception also recognizes lawful shipments by U.S. mail between persons licensed under the act. Further, the exception recognizes transportation of or from nonlicensees pursuant to regulations prescribed under paragraphs (1), (2), and (3) of this subsection.

The provisions of paragraph (5) of subsection (2) provide that nothing in this subsection shall be construed as applying in

any manner in the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, or a possession, differently than it would apply if such place were a State of the United States. This provision is intended to make it clear that the prohibitions of the subsection are not intended, by reason of the definition of the term "interstate or foreign commerce," to apply to over-the-counter sales, or transportation within such places.

The decisions of the courts (*Queen v. United States*, 77 F. 2d 780, cert. den. 295 U.S. 755; and *Scherr v. United States*, 305 U.S. 251) to the effect that the Government is not required to allege or prove matter contained in an exception would be applicable to the exceptions contained in this subsection. Establishment by a person that he came within the exception would be a matter of affirmative defense.

Subsection (b) of section 2 of the act, as contained in the bill, is a new provision which is intended to regulate the disposition of firearms by licensed importers, manufacturers, and dealers, to persons other than licensees under the act.

The subsection would make it unlawful for any importer, manufacturer, or dealer to sell or otherwise dispose of any firearm without following the required procedures for ascertaining (in such a manner as the Secretary shall by regulations prescribe) the identity and place of residence (or of business in the case of a corporation or other business entity) of the purchaser.

In order for the records of disposition required to be kept by licensees to have significant value or validity, it is essential that the licensees be required to satisfactorily ascertain the identity of the purchaser and his place of residence. It should be noted in this regard that the rifle used by Lee Harvey Oswald to assassinate the late President John F. Kennedy, and the pistol used to kill the police officer, were procured by Oswald from federally licensed dealers, under a fictitious name.

Under the subsection all sales or other dispositions by federally licensed importers, federally licensed manufacturers, and federally licensed dealers of shotguns and rifles (other than short-barreled weapons) to persons under 18 years of age, and of all other types of firearms to persons under 21 years of age, would be prohibited. This provides a uniform and effective means throughout the United States for preventing the purchasing of the specified firearms by persons under such ages. The procuring of firearms by juveniles (often without the knowledge or consent of their parents or guardians) has become a matter of national concern. The tragic consequences of this situation has been brought out in the proceeding of the Subcommittee To Investigate Juvenile Delinquency of the Committee on the Judiciary of the Senate.

The provisions of the subsection prohibiting licensees under the act from selling a firearm (other than a shotgun or rifle) to an unlicensed individual who is a resident of a State, other than that in which the importer's, manufacturer's, or dealer's place of business is located, is intended to deal with the very serious problem of individuals going across State lines to procure firearms which they could not lawfully procure or process in their own State and without the knowledge of their local authorities. The hearings before the Subcommittee to Investigate Juvenile Delinquency of the Committee on the Judiciary of the Senate demonstrated the ease with which residents of a particular State, which has laws regulating the purchase of firearms, can circumvent such laws by procuring a firearm in a neighboring jurisdiction which has no such controls on the purchase of firearms.

Paragraph (4) of the subsection would make it unlawful for any federally licensed importer, manufacturer, or dealer to sell or

otherwise dispose of any firearms to any person who, by reason of State or local law, regulation, or ordinance, applicable to the place of sale or other disposition, may not lawfully receive or possess such firearm.

The conditions imposed by this subsection on the operations of persons licensed under the act are deemed to be reasonable conditions on the privilege granted to them, and necessary to effective control of interstate and foreign commerce in firearms, and to protect the public welfare.

Subsection (c) of section 2 of the bill is a new provision which, like subsection (b), deals with the activities of licensed importers, licensed manufacturers, and licensed dealers. This subsection would make it unlawful for any such importer, manufacturer, or dealer to sell or otherwise dispose of any firearm or ammunition to any person (other than a licensee operating under the provisions of section 3(d) or section 6) knowing, or having reasonable cause to believe, that such person is under indictment or has been convicted in any court of the United States, or of a State (as defined in paragraph (2) of section 1) or possession, of a crime punishable by imprisonment for a term exceeding one year, or who is a fugitive from justice. In other words, licensees would be prohibited from knowingly disposing of firearms or ammunition to felons, fugitives from justice, or persons under indictment for a felony. This subsection would also make it unlawful for such importer, manufacturer, or dealer to ship or transport any firearm in interstate or foreign commerce to any person who may not lawfully receive such firearm under the provisions of subsection (a) of this section.

Subsection (d) of section 2(d) of the bill is existing law (15 U.S.C. 902(e)) except that the words "in any court" have been inserted to conform the language to the language of subsection (e).

Subsection (e) of section 2(e) of the bill is a restatement of existing law (15 U.S.C. 902(f)) revised to include persons under indictment. The omission of these persons from existing law appears to have been an inadvertent omission since such persons are, under existing law (15 U.S.C. 902(e)), prohibited from shipping or transporting firearms in interstate or foreign commerce. Also, the presumption contained in existing law has been eliminated, since it was declared unconstitutional by the Supreme Court in *Tot v. United States* 319 U.S. 463.

Subsection (f) of section 2 as contained in the bill is a new provision which would make it unlawful for any person (including a licensee under the act) knowingly to deposit, or cause to be deposited for mailing, or delivery by mail, or knowingly to deliver, or cause to be delivered, to any common or contract carrier for transportation or shipment in interstate or foreign commerce, any package or other container in which there is any firearm, without written notice to the Postmaster General or his delegate or to the carrier (as the case may be) that a firearm is being transported or shipped. This provision is correlated to the provisions of section 2(g) of the act as contained in the bill which in general prohibits carriers from delivering, or causing to be delivered, in interstate or foreign commerce, any firearm to any person who does not exhibit or produce evidence of a license obtained under section 3 of the act. Further, the testimony before the Subcommittee to Investigate Juvenile Delinquency of the Committee on the Judiciary of the Senate disclosed the existence of a practice of surreptitiously shipping firearms, without notice or disclosure, to circumvent requirements of Federal or State law.

Subsection (g) of section 2(g) of the act as contained in the bill is a new provision which would in general make it unlawful for any common or contract carrier to de-

liver, or cause to be delivered, in interstate or foreign commerce, any firearm to any person who does not exhibit or produce evidence of a license obtained under section 3 of the act. As noted in the discussion of subsection 2(f), any person who delivers, or causes to be delivered to the common or contract carrier, any package or other container in which there is a firearm, is required to give written notice to the carrier that a firearm is being transported or shipped.

This provision is also correlated to the provisions of section 2(a) of the act as contained in the bill, and is intended to aid in effectuating the provisions of that subsection which are intended to channel interstate or foreign commerce in firearms to persons licensed under the act.

Subsection (h): Subsection (h) of section 2 as contained in the bill is existing law (15 U.S.C. 902(g)) and relates to the transportation or shipment of stolen firearms.

Subsection (i): Subsection 2(i) as contained in the bill is a restatement of existing law (15 U.S.C. 902(h)). The language has been revised to correspond with other comparable provisions of Federal law pertaining to the receipt or sale of stolen property "moving as, or which is a part of, or which constitutes interstate or foreign commerce" (see 18 U.S.C. 2313 relating to sale or receipt of stolen vehicles). This change will make it clear that the provisions apply to stolen firearms or ammunition transported in interstate or foreign commerce, after having been stolen, as well as to firearms and ammunition stolen in the course of movement in interstate or foreign commerce.

Subsection (j): Subsection 2(j) as contained in the bill is a restatement of existing law (15 U.S.C. 902(i)) relating to firearms from which the manufacturer's serial number has been removed, obliterated or altered. The restatement makes applicable the provisions of the subsection to an importer's serial number, as well as the manufacturer's, since importers and manufacturers are separately classified under the provisions of the bill. The restatement also deletes the words "and the possession of any such firearms shall be presumptive evidence that such firearm was being transported, shipped or received, as the case may be, by the possessor in violation of this Act" since the presumption is meaningless in view of the decision of the Supreme Court in *Tot v. United States*, 319 U.S. 463.

Subsection (k): Subsection (k) of section 2 of the act as contained in the bill is a new provision which would make it unlawful for any person to import or bring into the United States, or any possession thereof, any firearms in violation of the provisions of this act or to import or bring into the United States or any possession thereof any ammunition for a destructive device. This provision is correlated to the provisions relating to importation of firearms contained in section 3(e).

Subsection (l): Subsection (l) of section 2 of the act as contained in the bill is a new provision which would make it unlawful for any person to knowingly receive any firearm or ammunition which has been imported or brought into the United States, or any possession thereof, in violation of the provisions of this act. This subsection also is correlated to the provisions of section 3(e) of the act relating to importation.

Section 3 of the bill: Section 3 of the bill would amend section 3 of the Federal Firearms Act (15 U.S.C. 903) which relates to licensing of importers, manufacturers, and dealers, and to recordkeeping by licensees.

Subsection (a): Subsection (a) of section 3 of the act as contained in the bill is a restatement and revision of existing law (15 U.S.C. 903(a)).

Under existing law, an importer is required to obtain a license as a manufacturer. The bill provides a separate classifica-

tion for importers, and under subsection (a) an importer would be required to obtain a license as such.

Under existing law, the applicant, if a manufacturer or importer, paid a fee of \$25 per annum, and, if a dealer, a fee of \$1 per annum. These fees are completely unrealistic and, in the case of dealers, represent only a fraction of the cost of processing an application and issuing a license. Further, the information presented at the public hearings (held in 1963 by the Subcommittees to Investigate Juvenile Delinquency of the Judiciary Committee of the Senate, and by the Commerce Committee of the Senate in 1963 and 1964 on S. 1975, 88th Cong., 1st sess.) strongly indicated that many of the persons holding licenses as dealers under the Federal Firearms Act were not bona fide engaged in business as such, but had, due to the nominal license fees, obtained the licenses for their own personal reasons (e.g., to obtain a discount on purchase of firearms, or to ship, or receive concealable weapons through the mails, or to circumvent State or local requirements).

Under the provision of subsection (a) of section 3 of the act as contained in the bill the license fees would be increased to a figure which would make it very unlikely that any person not bona fide engaged in business as an importer, manufacturer, or dealer would attempt to obtain a Federal Firearms Act license. The increased license fees would be such as to not only cover the cost of processing an application and issuing the license, but would defray the cost of conducting the investigation contemplated by the provisions of section 3(c) of the act as contained in the bill to determine the qualifications of the applicant to engage in the business, and whether or not he would be likely to conduct his operations in compliance with the act.

A separate classification and higher fees are provided in the case of a manufacturer or importer of, or a dealer in, "destructive devices" as defined in section 1(4) of the act as contained in the bill. Since "destructive devices" are not ordinary articles of commerce, it is anticipated that very few such licenses will be issued. The purpose of this separate classification and higher fee with respect to such devices is to make more effective the stringent controls imposed under the bill with regard thereto.

A separate license with a higher license fee is also provided for pawnbroker dealers. A "pawnbroker" is defined in section 1 of the bill. It may be noted that under the National Firearms Act (26 U.S.C., ch. 53) pawnbroker dealers are charged a higher rate of occupational tax than other dealers.

The language of the first sentence is intended to make it clear that no person shall engage in business as an importer of firearms or ammunition, or as a manufacturer of firearms or ammunition, or as a dealer in firearms or ammunition, until he has filed an application with, and received a license to do so from, the Secretary. In order to effectively regulate interstate and foreign commerce in firearms and ammunition, it is necessary that all persons engaging in these businesses be licensed. Similar provisions were upheld in *Hanf v. United States*, 235 F. 2d 710, cert. den. 352 U.S. 880, as reasonably necessary to effective control of interstate and foreign commerce under comparable conditions.

The provision that applicants shall be required to pay a fee for obtaining their license "for each place of business" is merely a clarification of existing law, since existing law is now so construed (see 26 CFR, pt. 177.33).

Subsection (b): Subsection (b) of section 3 as contained in the bill is a restatement and revision of the provisions of existing law (15 U.S.C. 903(b)). Existing law provides that upon payment of the prescribed

fee the Secretary of the Treasury shall issue to such applicant a license which shall entitle the licensee to transport, ship, or receive firearms and ammunition in interstate or foreign commerce unless and until the license is suspended or revoked in accordance with the provisions of the act. It will be noted that there are no specific conditions on the issuance of a license other than the payment of the prescribed fee. However, in view of the proscriptions in section 2 of the act against the shipment, transportation, or receipt in interstate or foreign commerce of firearms or ammunition by a person who is a fugitive from justice, or who has been convicted of, or who is under indictment for, any offense punishable by imprisonment for a term exceeding 1 year, the act has consistently then construed as precluding the issuance of licenses to such persons since it would be illegal for them to engage in the transactions covered by the license (see 26 CFR, pt. 177). The revision of section 3(b) makes it clear that the privileges granted to the licensee are not unlimited or unconditional but are subject to the provisions of this act and other applicable provisions of law, and also that the application for the license may be denied under the conditions set forth in section 3(c) of the act as contained in the bill.

Subsection (c): Subsection (c) of section 3 of the act as contained in the bill is basically a new provision, except to the extent that it sets forth the construction of existing law to the effect that a license will not be issued to a person who is prohibited from transporting, shipping, or receiving firearms or ammunition in interstate or foreign commerce under the provisions of subsection (d) or (e) of section 2 of the act (i.e., a person who has been convicted of, or who is under indictment for, a felony, or who is a fugitive from justice).

The existing provisions of the Federal Firearms Act, regarding the issuance of licenses, represent an anomaly to the general practice with regard to the issuance of licenses or permits in that the act contains no standards for the issuance or denial of a license such as are contained in other comparable acts. (See 26 U.S.C. 5271(c) and 5712, and 27 U.S.C. 204(a)(2)).

Even though the act has no specific statutory standards, the courts would have held that there would have been an implied standard had the terms of the act provided any discretion to the Secretary with regard to the issuance of a license. (See *Ma-King Co. v. Blair*, 271 U.S. 479, where the Supreme Court held that in the case of a statute which granted discretion; i.e., used the language "may issue" rather than "shall issue," that a license could be denied if there were reasonable grounds for believing that the applicant would not be likely to conduct his operations in conformity with Federal law.

Subsection (c) of section 3 of the act as contained in the bill eliminates the anomalous situation with respect to the licensing system contained in existing law and sets forth specific standards under which an application shall be disapproved and the license denied, after notice and opportunity for hearing.

The standards provided in subsection (c) are very similar to the standards provided in 26 U.S.C. section 5271(c) (relating to permits to procure, deal in, or use special denatured distilled spirits); 26 U.S.C. 571 (relating to permits for manufacturers of tobacco products); and to 27 U.S.C. 20 (relating to wholesale dealers in liquor; importer of liquors, etc.). It may be noted that the principal standard in all three of the statutes cited is the implied standard recognized by the Supreme Court in the *Ma-King* case (*Ma-King v. Blair*, 271 U.S. 479).

The hearing and appeal procedures provided by the Administrative Procedure Act

(act of June 11, 1946, 5 U.S.C. 1001, et seq.) would, as in the case of the permits provided for in 26 U.S.C. 5271 and 5712, be applicable with respect to license proceedings under the Federal Firearms Act.

The provisions of paragraph (2) relating to individuals possessing, directly or indirectly, the power to direct or cause the direction of the management and policies of the corporation, partnership, or association, are necessary to preclude felons or other individuals who could not obtain a license as an individual from using a corporation or other business organization to conduct their operations. In the past, individuals convicted of a felony have formed corporations for the purpose of continuing their firearms operations.

The provisions of paragraph (5) would preclude the issuance of licenses to applicants who do not have, or do not intend to have or maintain, bona fide business premises for the conduct of the business. This provision will be a definite aid in limiting licenses under the Federal Firearms Act to persons bona fide engaged in business, and assuring that there will be an appropriate place that is subject to proper inspection where the required records will be maintained.

The information developed at the public hearings held by the Subcommittee To Investigate Juvenile Delinquency of the Judiciary Committee of the Senate disclosed a definite need for such a provision. It was shown that in some cases importers or dealers maintained no regular place of business which could be found, and conducted their operations through post office boxes, mail drops, answering services, etc.

Subsection (d): Subsection (d) of section 3 of the act as contained in the bill replaces the provisions of existing law contained in section 3(c) of the act (15 U.S.C. 903(c)) and reflects the construction of existing law as contained in current regulations (26 CFR 177).

The requirement of existing law, concerning the posting of a bond by a licensee convicted of a violation of the act in order to continue operations pending final disposition of the case on appeal, serves no useful purpose, and has been omitted. Further, the provisions of this subsection have been revised to simplify administration. Since the licensee is required to reapply each year for a license, the information on the application relating to his indictment and/or conviction will be adequate. Also, the license itself can, as at present, contain a warning that the licensee cannot continue operations once his conviction has become final (other than as provided in sec. 6).

As under existing law and regulations, a new license will not be issued to a person under indictment for, or who has been convicted of, an offense punishable by imprisonment for a term exceeding 1 year. However, a licensed importer, licensed manufacturer, or licensed dealer may continue operations pursuant to his existing license (provided that prior to the expiration of the term of the existing license timely application is made for a new license), during the term of such indictment and until any conviction pursuant to the indictment becomes final, whereupon he shall be subject to all provisions of his act and operations pursuant to such license shall be discontinued. If a bona fide application for relief is filed under section 6, operations may continue until such application is acted upon.

Subsection (e): Subsection (e) of section 3 of the act as contained in the bill is a new provision designed to bring under control the flow of surplus military weapons and other firearms being imported or brought into the United States which are not particularly suitable for target shooting, hunting, or any other lawful sporting purpose. The Interim Report of the Committee on the Judiciary

made by its Subcommittee To Investigate Juvenile Delinquency with respect to the "Interstate Traffic in Mail-Order Firearms" (S. Rept. No. 1340, 88th Cong., 2d sess.) made it clear that such firearms are a principal source of supply of juvenile delinquents and certain other criminal elements. This report also indicated that many of these firearms were in such poor condition, or of such poor workmanship, that their use would be hazardous.

The operations of certain importers of and dealers in such firearms has reflected a flagrant disregard of the public interest.

Under the provisions of the subsection, no person could import or bring firearms into the United States or a possession thereof, except upon authorization by the Secretary. Such authorization would not be issued under the provisions of this subsection unless it was established to the satisfaction of the Secretary that certain conditions designed to protect the public interest had been met.

These provisions would not hinder the importation of currently produced firearms of a type and quality generally recognized as particularly suitable for lawful sporting purposes, or the importation of antique or un-serviceable firearms (not readily restorable to firing condition), imported or brought in as a curio or museum piece.

Subsection (f): Section 3(f) of the act as contained in the bill is a new provision relating to the sale or other disposition of destructive devices, machineguns, short-barreled shotguns, and short-barreled rifles by licensees to nonlicensees. This provision is imposed as a condition on the privilege granted the licensee to engage in interstate or foreign commerce with respect to such firearms. Since these are not ordinary articles of commerce, it not expected that there will be any significant volume of transactions falling within the application of the subsection. However, it is deemed to be in the public interest to place adequate controls over the disposition of these firearms by licensees to nonlicensed persons.

Subsection (g): Subsection (g) of section 3 of the act as contained in the bill is a restatement and revision of the recordkeeping requirements of existing law (15 U.S.C. 903(d)). Under existing law and regulations (26 CFR 177.51), licensees are required to maintain complete and adequate records reflecting the importation, production, and disposition at wholesale and retail, of firearms, and the records are required to be kept available for inspection by internal revenue officers during regular business hours (26 CFR 177.54).

The restatement of the recordkeeping requirements contained in this subsection would make clear in the statute the requirement that the records be made available for inspection at all reasonable times, and the authority of the Secretary or his delegate to enter during business hours the premises of the licensee for inspection purposes.

The subsection also makes clear the authority of the Secretary, by regulations, to require the submission of reports concerning the operations of licensees.

It has been existing practice to make available to State and local law enforcement officers information obtained from the required records of licensees for law enforcement purposes (e.g., tracing the ownership of a firearm found at the scene of the crime). The subsection would provide specific statutory authority for this practice.

It may be noted that the entry and inspection provisions contained in this subsection are similar to those provided in 26 U.S.C. 5146 with regard to the premises of liquor dealers.

Subsection (h): Subsection (h) of section 3 of the act as contained in the bill is a new provision which would require licensees issued to importers, manufacturers, and

dealers under the provisions of this section to be kept posted and available for inspection on the business premises covered by the license.

Subsection (i): Subsection (i) of the act as contained in the bill is a new provision. Existing law (15 U.S.C. 902(1)) makes it unlawful for any person to transport, ship, or knowingly receive in interstate or foreign commerce, any firearm from which the manufacturer's serial number has been removed, obliterated, or altered. Under the statutory authority to prescribe regulations to carry out the provisions of the act (15 U.S.C. 907), the Secretary has prescribed regulations requiring the identification of firearms (26 CFR 177.50). Subsection (i) would include in the act specific statutory authority for the Secretary to require licensed importers and licensed manufacturers to identify firearms in the manner prescribed by regulations.

Section 4: Section 4 of the act as contained in the bill is a restatement of existing law (15 U.S.C. 904). However, the section as contained in the bill eliminates certain of the exceptions in existing law.

Section 4 of the act as contained in the bill contains the exception in existing law (15 U.S.C. 904) applicable in respect to transportation, shipment, receipt, or importation of firearms or ammunition imported for, or sold or shipped to, or issued for the use of (1) the United States or any department, independent establishment, or agency thereof, or (2) any State or possession, or the District of Columbia, or any department, independent establishment, agency, or any political subdivision thereof. Such transactions are completely exempt from all provisions of the act.

The exemptions in existing law for certain nongovernmental activities have been omitted. Such omission does not mean that firearms or ammunition cannot be shipped to, or procured by, the omitted persons. It merely means that the omitted persons will be required to obtain firearms and ammunition from licensees and that the proper records of transactions must be maintained.

Section 5: No change has been made in subsection (a) of section 5 of the act relating to penalties. However, subsection (b) of section 5 of the act as contained in the bill is a restatement and revision of existing law (15 U.S.C. 905(b)). This subsection would extend the existing forfeiture provisions of the Federal Firearms Act, which provide for the forfeiture of firearms and ammunition involved in violations of the act to cover firearms and ammunition "involved in, or used or intended to be used in," violation of the act or of certain provisions of title 18 of the United States Code pertaining to threats to, or assaults on, law enforcement officers, members of the judiciary, the President, the Vice President, etc.

Under existing law, firearms involved in violations of the Federal Firearms Act (15 U.S.C. 901 et seq.) or the National Firearms Act (26 U.S.C. ch. 53) are subject to forfeiture. However, these provisions are inadequate to cover many cases involving firearms used in offenses against the laws of the United States pertaining to assaults on, or threats against, law enforcement officers and public officials.

The procedures applicable to seizure, forfeiture, and disposition would be the same as for firearms seized for violation of the Federal Firearms Act (i.e., the provisions of the Internal Revenue Code of 1954, applicable in respect of National Firearms Act firearms, would apply).

The enactment of this provision is deemed to be clearly a matter in the national interest.

Section 6: Section 6 of the bill would renumber sections 6, 7, 8 and 9 of the Federal Firearms Act as sections 8, 9, 10 and 11, re-

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spectively, and insert after section 5 two new sections.

The new section 6 would provide for the relief of convicted persons under certain conditions. This section would not apply if the crime involved the use of a firearm or other weapon or a violation of the Federal Firearms Act or the National Firearms Act. Otherwise, the Secretary could grant relief from the disabilities incurred under the act by reason of a conviction if it was established to his satisfaction that the circumstances regarding the conviction and the applicant's record and reputation were such that the applicant will not be likely to conduct his operations in an unlawful manner and that the granting of the relief would not be contrary to the public interest.

The new section 7 of the act as contained in the bill relates to the applicability of other laws. This section is merely for the purpose of making it completely clear that nothing in the Federal Firearms Act shall be construed as modifying or affecting any provision of the National Firearms Act, section 414 of the Mutual Security Act of 1954, or section 1715 of title 18 of the United States Code. Also subsection (b) makes it clear that nothing in the Federal Firearms Act is intended to confer any right or privilege to conduct any business contrary to the law of any State, or to be construed as relieving any person from compliance with the law of any State.

Section 7: Section provides that the amendments made by this act shall become effective on the date of the enactment of the act, except that the amendments made by section 3 to section 3(a) of the Federal Firearms Act would not apply to any importer, manufacturer, or dealer licensed under the Federal Firearms Act on the date of enactment of the act, until the expiration of a license held by such manufacturer, importer, or dealer on such date.

In effect, this would mean that a licensee would not have to obtain a new license until his existing license expired.

LEAVE OF ABSENCE

Mr. HOLLAND. Mr. President, I ask unanimous consent that I may be excused from attendance in the Senate for the remainder of the afternoon and tomorrow in order that I may attend the planned launching of the Gemini space trip tomorrow in Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

"CRIME CONTROL—WHOSE RESPONSIBILITY IS IT?"—ARTICLE BY HOWARD B. GILL

Mr. MORSE. Mr. President, recently, at William and Mary College, one of our country's outstanding, brilliant criminologists, Howard B. Gill, director of the Institute of Correctional Administration, School of Government and Public Administration, American University, Washington, D.C., had published in the William and Mary Law Review an article entitled "Crime Control—Whose Responsibility Is It?"

In view of the fact that the Senate will be considering before adjournment the question of crime and its solution, I ask unanimous consent that the article be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CRIME CONTROL—WHOSE RESPONSIBILITY IS IT? (By Howard B. Gill,¹ director, Institute of Correctional Administration, School of Government and Public Administration, American University, Washington, D.C.)

"Only when the law—that is the judicial branch of the government—takes over the crime control program shall we ever have efficient law enforcement, a sound correctional program including probation and parole, and effective crime prevention."

When Cesare Beccaria wrote his famous essay "Of Crimes and Punishments," 200 years ago,² he enunciated what Gilbert and Sullivan made popular a century later in the phrase "make the punishment fit the crime." It was almost the end of a long era in which the judiciary had dominated the entire crime control process, often in a ferocious exercise of justice. It was an era which began with Hammurabi and which was characterized in more modern times by the infamous "Bloody" Lord Jeffries.

During this era of judicial domination, the judge convened the grand jury and returned the indictment. The sheriff as agent of the court apprehended the accused and confined him in the jail attached to the court. The judge and his petit jury tried, convicted, and sentenced the culprit after which the sheriff took him out and hanged him—or otherwise carried out the order of the court. Now when as a result of Beccaria's famous essay, punishment became regulated, all this was very neat and tidy—and, please note particularly, entirely under the judicial branch of the government.

A HISTORICAL NOTE

During the 100 years following Beccaria's proposals there occurred events which had a profound influence on the whole administration of the criminal law.

In 1777, John Howard published his "State of Prisons" which greatly influenced both British and American thinking with regard to the treatment of prisoners.³

In 1779, the English Parliament passed the Penitentiary Act enabling sheriffs to create out of the jails places where convicts could "do time."⁴

In 1785, Sir Thomas Beevor, under the Penitentiary Act, remodeled the jail in Norfolk County, England, as the first modern penitentiary.⁵

In 1790, Pennsylvania authorized the remodeling of the Walnut Street Jail as a penitentiary house.⁶

From 1790 to 1830, many States followed Pennsylvania's example and the famous Auburn and Pennsylvania systems were established.⁷

In 1830, Massachusetts courts developed the doctrine of judicial reprieve;⁸ and in

¹ Remarks made at the Annual Banquet of the George Wythe Chapter, Phi Alpha Delta Law Fraternity, College of William and Mary, Williamsburg, Va., Jan. 11, 1964.

² Barnes, Harry Elmer, and Teeters, Negley K., *New Horizons in Criminology*, 3d ed., Prentice-Hall, Inc., New York, 1959; pp. 322-323.

³ *Ibid.*, pp. 331-335.

⁴ *Ibid.*, p. 335.

⁵ *Ibid.* (2d ed. 1951); pp. 397-398.

⁶ *Ibid.* (3d ed., 1959); pp. 335-337.

⁷ *Ibid.*, pp. 337-347. See also, Attorney General's Survey of Release Procedures, vol. V., Prisons, Federal Prison Industries, Inc., Leavenworth, Kans., 1940; pp. 1-39.

⁸ *Commonwealth v. Chase*, Thacker's Criminal Cases 267 (1831); recorded in vol. XIX of the Records of the Old Municipal Court of Boston, p. 199. See also, Attorney General's Survey of Release Procedures, vol. II., Probation, U.S. Government Printing Office, Washington, D.C., 1939; p. 19.

1841, John Augustus began his work with prisoners released under this theory which finally resulted in the first probation law of 1878.⁹

From 1840 to 1844, Capt. Alexander Macconochie set up a parole system for prisoners on Norfolk Island, which became elaborated in the Irish system from 1850 to 1870 and which in turn inspired American prison authorities to establish parole in this country beginning in 1876.¹⁰

With these events during these hundred years, the major programs of dealing with criminals after conviction had been taken out of the hands of the judiciary and transferred to the executive branch of the government.

During this same period other significant events took from the courts their function of apprehending the offender. In 1829, Sir Robert Peel created the first police department in London, and in 1844, the city of New York established the first organized police force in America.¹¹ Both of these police forces were placed under the executive and the investigation of suspected offenders was gradually transferred from the sheriff to the detectives of the police departments. In fact in many jurisdictions, the sheriff who had by now become an elected official, abandoned most of his participation in criminal law activities in favor of the more lucrative civil processes. In some States the office of sheriff was abolished.

DISASTROUS RESULTS

What were some of the results of these events? In general, it can be said that police, prisons, and parole, and to some extent probation became the football of politics, unprofessional administration, and often corrupt and venal practices. In a single American city of approximately 750,000 inhabitants recently, there were 10,000 illegal arrests. Throughout the United States, the proliferation and fragmentation of the police function in thousands of ineffectual units due to political influence have produced a situation in which 50 percent of the people of the United States have little or no effective police protection. The underworld operates sometimes with police connivance in every large American city and professional "white collar" criminality almost completely eludes law enforcement officials.

The abuse of prisons for private profit until recently, and the corruption of the offices of sheriff and wardens and their personnel as political plums and as centers for political rings, hang like millstones around the hopes of professional administration. The granting of paroles by politically dominated boards ignorant of professional procedures at best and corrupted by the outright sale of pardons and paroles at worst, makes a farce of justice.

The public documentation of these charges is well known to every serious student of crime control.

JUDICIAL EROSION

However, another and perhaps more subtle weakness in the crime control process has resulted from the gradual erosion of the power and the influence of the judiciary. The courts, themselves, and indeed almost the whole legal profession, have come to believe that the sole function of the judiciary in crime control is to hear the evidence, adjudicate the law, and sentence the offender. Before and beyond this, they have disclaimed all responsibility for the administration of the criminal law.

One has only to suggest that members of the bar should assume direction of police

⁹ Barnes and Teeters, op. cit., 3d ed. 1959 pp. 553-554.

¹⁰ *Ibid.*, pp. 417-426.

¹¹ *Ibid.*, p. 213.

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(Mr. PATMAN (at the request of Mr. WELTNER) was granted permission to extend his remarks at this point in the Record and to include extraneous matter.)

[Mr. PATMAN'S remarks will appear hereafter in the Appendix.]

EXCISE TAX ON USE OF TELEPHONE

(Mr. McGRATH (at the request of Mr. WELTNER) was granted permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. McGRATH. Mr. Speaker, New Jersey's Second District, which I have the honor to represent, is classified as one of the most severely depressed districts in the entire Nation. Despite this, during 1964, residents of my district paid approximately \$2.4 million in telephone excise taxes.

This excise tax on the use of the telephone seems discriminatory from several standpoints. In the first place, the taxes were imposed in 1941 and, as a temporary measure to help cover the cost of our participation in the Korean police action were increased in 1951. These increases were extended in 1954 and have been included in the annual extensions since 1959.

I feel the Congress should abolish these temporary taxes which were imposed long ago for a specific purpose. Previous attempts to secure reform have failed, but something should be done to alleviate this unfair burden. This tax hits hardest at the low-income citizen who must pay the same tax rate as those with greater ability to pay. The 10 percent levy on communications is one of the most unfair of these excise taxes.

Of the approximately \$14.7 billion the Federal Government expects to realize from excise taxes during the current fiscal year, telephone and telegraph users will contribute \$1 billion. And since the telephone and telegraph companies must also pay Federal taxes and since some of this must be absorbed by users of their services, the American people are suffering double taxation as a result of this excise tax.

Therefore, Mr. Speaker, today I am introducing a bill which would repeal the excise tax on communications, and I urge my colleagues to support this important measure.

TEMPORARY EMPLOYMENT OF STUDENT INTERNS

(Mr. BRADEMAS (at the request of Mr. WELTNER) was granted permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. BRADEMAS. Mr. Speaker, I am today introducing legislation which would allow each Member of the House of Representatives to employ a student intern during the academic vacation period, from June 1 through August 31. The bill does not call for any additional salary authorization but rather permits the temporary summer employment of

one additional person over a Member's normal staff limit.

As one who has had summer student interns on his staff in the past, I am convinced of the importance of giving interested young men and women the opportunity to view the legislative process from the close-up perspective of a congressional office. I might add that in my experience summer interns are able to contribute effectively to the functioning of a congressional office.

It is true, of course, that many offices are not staffed to capacity and could hire a summer intern if they wished. It is also true, however, that many offices, which are already fully staffed and would like to have the services of a student intern during the summer months, are unable to accept an intern because of the staff limitation.

My proposal, which parallels one introduced by my distinguished colleague, the Honorable HOWARD ROBINSON, of New York, would permit such offices to make use of the services of a student intern while requiring no further appropriation of funds. The intern would be paid out of whatever funds were available from the Member's regular salary allowance.

The success of the student intern programs in the past attests to the desirability of encouraging college and university students to spend a summer working on Capitol Hill. I therefore urge my colleagues to give serious consideration to this proposal.

TRAFFIC IN FIREARMS

(Mr. FULTON of Tennessee (at the request of Mr. WELTNER) was granted permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. FULTON of Tennessee. Mr. Speaker, day after tragic day and hour after fateful hour somewhere in this Nation someone suffers because of the misuse of a firearm.

Our Washington newspapers and the press reports from home carry, all too frequently, stories initiated because someone had misused a gun.

And yet the trafficking, irresponsible trafficking, in these deadly weapons continues unabated in the United States while the elected officials ignore public sentiment for stricter control of these instruments of crime and destruction.

Crime continues to flourish in this great Nation of laws. The statistics mount every year. Yet every year, despite evidence of wide public support for action by the Congress, we do nothing.

It is estimated by Mr. Carl Bakal, writing in the December 1964 Harper's magazine, that more than 17,000 Americans are firearms victims each year. This figure includes more than half the 8,500 outright murders, at least half the 22,000 annual suicide victims, and about 2,000 accident victims, 25 percent of whom are 14 years of age or younger.

It is estimated that there are about 1,737,000 new firearms entering the civilian market annually in this Nation. Despite two Federal laws designed to con-

trol the distribution of these weapons, control is all but impossible. Even in cities and local communities where the need to control firearms is felt and strong firearms laws have been enacted calling for permits and even registration, local authorities are helpless in controlling the influx of weapons from other States or even from another country.

The major and most significant contributor to this lack of control is the absence of legislation to police the distribution of weapons through mail-order gun firms.

On January 31, 1965, the Washington Post carried the tragic story of a young Baltimore youth who upon walking into a local police station, announced that he had just shot and killed his mother, father, and 11-year-old sister. He then handed a .38 caliber foreign revolver and a pocket full of cartridges to the officer on duty. Where did this boy get that gun? From a mail-order gun firm in California. What right does anyone have to sell a weapon to a 15-year-old child?

Not too long ago, on December 29, 1964, three young Tennesseans were picked up and found to be carrying a .45 caliber submachinegun with ammunition, and a .38 caliber pistol. One of these men was 22, one 18, and the third 16. What earthly use does any person of any age in this Nation today have for a submachinegun? Fortunately, these men were picked up before those weapons could be used.

I could go on and on citing instance after instance where firearms in irresponsible hands have led to heartache and tragedy. The Washington Post carries almost daily in its editorial and news columns items pointing to the tragic misuse of firearms. Mr. Alan Barth of the Post's editorial staff is to be commended for his excellent job of awakening the public conscience to this constant menace.

Somewhere in this land today, perhaps this very moment, a life will be taken or a home destroyed because some irresponsible person has gotten hold of a gun and misused it. If the Congress had faced up to its responsibility that person might have been spared.

The bill which I introduced today is designed to drastically curtail the trafficking of firearms into the hands of the irresponsible.

It is not a stringent bill. It in no way interferes with any responsible person's Constitutional rights, or anyone's Constitutional rights for that matter.

This bill would simply make it illegal to ship firearms interstate to juveniles, persons under indictment or who have been convicted of crimes punishable by imprisonment for a term exceeding 1 year or a person who is a fugitive from justice.

To secure a mail-order firearm, it would be necessary for a person to submit a sworn statement, attested by a notary public, to the effect that such person is 18 years of age or more, that he is

not prohibited by the Federal Firearms Act from receiving a firearm in interstate or foreign commerce and that there are no provisions of law, regulations, or ordinances applicable to the locality to which the handgun or firearm will be shipped, which would be violated by such person's receipt or possession of the handgun or firearm.

There is no registration requirement in this bill. Nor is there anything in it to prohibit a parent from giving his child a firearm if he desired. What this legislation is designed to do is to prevent the surreptitious possession of firearms by juveniles and other irresponsible persons.

I realize that this is not as strong a bill as some would like. But it is a reasonable bill. As a law, this would deny no one the right to possess a firearm if he meets the minimal responsibility requirements as outlined.

There is a mounting need in this Nation for control of firearms trafficking. There is sentiment, strong public sentiment for control. The Congress has been studying this problem for 4 years and its studies affirm the need for control.

There is no reason for further delay. Our duty is before us. The penalty for further delay will be paid in the most priceless commodity in the world—human lives.

ILLUSTRATED CAPITOL MAGAZINE

(Mr. HAYS (at the request of Mr. WELTNER) was granted permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HAYS. Mr. Speaker, I have introduced a concurrent resolution to authorize printing as a House document a revised illustrated edition of the magazine-type publication called "The Capitol." This measure is designed to supersede all current proposals to reprint House Document No. 394 of the 87th Congress in order that the newly proposed publication may contain up-to-date information.

It is the purpose of the concurrent resolution to permit each Member of the House to receive 1,000 copies of this magazine for such distribution as they wish to make.

OMNIBUS CRIME BILL FOR DISTRICT OF COLUMBIA

(Mr. HUOT (at the request of Mr. WELTNER) was granted permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. HUOT. Mr. Speaker, the House is being asked to consider H.R. 5688, the omnibus crime bill for the District of Columbia. It is, I believe, ill-timed, ill-considered legislation. A brief history of this bill should demonstrate why it should not pass.

This bill is a rehash of a series of crime bills which have been before this House in recent years. In the 88th Congress, H.R. 7525, the predecessor to H.R. 946 passed the House and went on to the

Senate. The Senate District Committee almost totally rejected the bill. It made wholesale revisions to it. For example: The Senate committee rejected title I as being unable to withstand constitutional attack since it failed to provide adequate safeguards to protect accused individuals from improper interrogation and detention. There are many other examples where the Senate committee rejected totally or accepted only after major revision, the House version. And yet, the House District Committee has chosen to ignore the Senate version. I do not urge for 1 minute that the House must accede completely to the opinions of the Senate committee. I do, however, strongly urge that when the two Houses entertain such divergent points of view this House should at least examine those areas of conflict. It is certainly not asking too much to ask that the House District Committee hold full and adequate hearings to determine the value of the Senate version. But no, we are going to be asked to consider a bill of vital importance to the residents of the District of Columbia without the benefit of any hearings at all.

Furthermore, serious attacks have been made upon the constitutionality of many of this bill's provisions by such responsible groups as the Justice Department, the District Commissioners, the Council on Law Enforcement, and the bar association. Yet the District committee has chosen not to accept the counsel of these distinguished groups and has chosen to again report out this bill containing the very sections against which these groups cautioned.

I believe it is of utmost importance that this bill totally disregards the President's message to Congress of February 15, 1965, in which he calls for "a fair and effective system of law enforcement" and "imaginative improvements in the entire legal and social structure of our criminal law and its administration." Furthermore, it takes no account of the President's simultaneous statement that he will "establish a commission which will concern itself specifically with crime and law enforcement in the District."

It is my understanding that recent experience has shown that many District bills pass the House by default. It is often difficult to muster sufficient interest to get Members to the floor for a measure which ostensibly has no effect upon them in their home districts. This is not true of the District crime bill. Other jurisdictions will look on. They will see the Congress passing harsh, oppressive legislation. They will be tempted to consider it for themselves. Criminal procedure must keep pace with modern psychology and criminology. Constitutional guarantees must be fortified not weakened.

HALT THE CRIPPLING EFFECTS OF INFLATION

The SPEAKER. Under previous order of the House, the gentleman from Illinois [Mr. DERWINSKI] is recognized for 15 minutes.

Mr. DERWINSKI. Mr. Speaker, our attention has naturally been riveted to

the current problems in foreign affairs: Vietnam, Cyprus, Congo, Malaysia, and other unresolved world trouble spots.

On the domestic front the series of events in Selma, Ala., have naturally been under very close scrutiny by most of our citizens.

During the past week the Chicago Tribune has attempted to direct the attention of its readers to the dangers of inflation. Specifically, these articles present historical evidence as to the manner in which inflation depreciates our money and erodes the savings, pensions, and insurance of individuals.

In order to emphasize the tragic consequences of inflation vividly seen in economic history, the Tribune produced five articles which I place in the Record at this point as an extension of my remarks. [From the Chicago (Ill.) Tribune, Mar. 14, 1965]

REMINDERS OF INFLATION—I: FRANCE, 1790-96

It is easy to forget the perils of inflation when things seem to be going smoothly and when the Government keeps assuring us there is nothing to worry about.

But the mounting alarm of economists and bankers (even Chairman Martin of the Federal Reserve Board fears we are on the brink of a new inflation) should alert us to the havoc that inflation can cause—and has caused in one country after another. We mustn't become so anesthetized by the promises of a Government-financed utopia as to forget that other countries have tumbled over the brink in pursuit of the same enticing goal. And the Government's mechanical assurances should remind us of similar assurances which have been given so often before, and have proved false.

They should remind us that in 1790, on the eve of the great classic example of inflation, members of the revolutionary French National Assembly welcomed the proposal to restore prosperity by issuing paper money, called "assignats," backed by the land which had been seized from the church. It was hailed as "the only means to insure happiness, glory, and liberty to the French nation."

"We are told," the respected nobleman, Mirabeau, informed the assembly, "that paper money will become superabundant. Of what paper do you speak? If of a paper without a solid base, undoubtedly; if of one based on the firm foundation of landed property, never."

Of course Mirabeau knew better; barely a year earlier he had denounced paper money as "a nursery of tyranny, corruption, and delusion." But France faced a financial crisis, and in time of crisis even intelligent men sometimes grasp for the most convenient straws.

The tragedy of the assignats is well known. At first, the issue was limited to 400 million livres, and was used to pay pressing government obligations. The assignats could be used to buy the church land, in which event they were to be retired from circulation, or they could continue in circulation as long as land was available as security.

But as the land was sold, the Government failed to destroy the money. It spent it over again; and as still more money was needed to prepare for war and to keep the people content, it printed new assignats.

Prices rose daily. When Queen Marie Antoinette was told the people couldn't afford bread, she is said to have suggested they eat cake. Instead of pacifying the people, the outpouring of assignats angered them. Moderate leaders were replaced by radicals; the royal family was guillotined, and the assignats were pumped out faster than ever. Soon the peasants refused to accept paper

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The role of the foundations is also accounted for in this wide-ranging résumé of "problems and prospects." It recognizes that it has been the traditional role of foundations to "support research and training rather than performance," but, it says, the "very essence of the performing arts requires that they be viewed in another framework * * *. A play, a piece of music, or the outline of a ballet has only a partial existence on paper. Performance before a live audience is itself part of the process of realizing a work of art. This unique characteristic of the performing arts is not widely understood as yet by philanthropic sources." It stresses, too, the role of the local foundation in serving local needs, as opposed to the big-name foundations that address themselves to problems on a broader front. Credit, too, is assigned to those communities (such as San Francisco, Salt Lake City, Philadelphia, and Los Angeles) that have made a start on assistance to the performing arts in their own localities, and to such a venture as the New York State Council on the Arts. But it is generally recognized that these are at best limited and peripheral.

As parent to the whole body politic, the Federal Government remains the last, if not the best, hope of those who see problems multiplying more rapidly than the prospects of resolving them. It is still a fact, as the report records, that "the support and attention the Federal Government has given to the performing arts—and, for that matter, the arts in general—has been largely incidental to some other purpose." This even includes the \$25,000 voted by Congress last August for the National Symphony Orchestra (a local problem, since it is based in the District of Columbia, which is a congressional concern), as well as the \$15,600,000 voted to constitute the National Cultural Center as a memorial to the late President John F. Kennedy.

But the Federal Government cannot be immune to the existence of a strong commitment to the performing arts on the part of an influential if proportionately small element of the public, any more than it can ignore wildlife or philately. Urban renewal has contributed indirectly but influentially to the creation of a great center in New York and other facilities in Washington, Baltimore, Asheville, N.C., Chicago, Pittsburgh, Milwaukee, and elsewhere. The cultural exchange program has involved the State Department with almost every aspect of the performing arts, except the problem of what to do if the organizations to perform them didn't exist.

Recognizing the problems that impend before a program of direct financial assistance from the Federal Treasury can be created for the performing arts, the report nevertheless offers some productive lines of procedure short of the ultimate commitment. It remarks, for example, on the 10 percent Federal tax levied on musical instruments, the tools of the musician's trade. It takes note of the load upon the commercial theater (which does not otherwise receive much of its attention) created by the 10-percent admission tax.

It also takes exception, and validly, to the burdens imposed by omission rather than commission. These include the oversight (the word is mine) by which the jukebox industry is permitted to operate without payment for the use of music, or any responsibility beyond the cost of a record. Says the report: "It is estimated that the gross income from approximately half a million jukeboxes is close to half a billion dollars a year. If the jukebox industry were subjected to royalty payments for playing copyrighted music, the musical arts as a whole could be given a substantial lift." It also suggests that there "seems no reason why (educational television) should receive blanket exemption from the payment of reasonable

fees." It regards this as another pressure to force the artist to provide a partial subsidy for the general cultural and intellectual development of the Nation.

In its effort to survey the wide spectrum of activity that comes within the community of performing arts, the report looks also at organizational and managerial problems (a director, it suggests, should be auditioned as carefully as a second violinist), at the relationship of the colleges and universities to the artist and his well-being, at the development of a broader, more responsive audience, and even at the training of critics.

As befits its billing as "a challenge, not an answer," the report restricts itself to the problems and prospects of the performing arts but does not venture into prophecy. It might, however, have probed a little deeper into the responsibilities of labor in the relationship of management and performer, since it aligns itself with the view that union members form the core of the performing arts, and that they are among those who should not be required to subsidize such activity. But in a general discussion of problems and techniques of negotiation, it does not deal with the increasing tendency of labor personnel (musicians, that is) to disregard the recommendations of their own elected officials. Nor is there adequate discussion of the extent to which conditions of work demanded as a quid pro quo for a contract affect the quality of the result.

On the aggravating question of the profits, by commercial television and radio, from the use of airwaves—which "belong to the public"—and their possible utilization for the support of the performing arts, the report terms it a "complex matter" that is not "within the purview of this study" and one on which "this panel has not taken a position." It presents both points of view mentioning the possibility of a tax on the gross national income of the industry (estimated at over \$2 billion a year) or a levy on the sales of radio and television stations, which "over the past 10 years, have amounted to about \$1.06 billion." It also states the countercontention of the industry that "they probably contribute as much, if not more, to the performing arts than they receive," through employment opportunities, development of audiences, and public service programs. The hollow sound of this assertion has its echo in the admonition that "the commercial television industry has a definite responsibility to improve its methods of presentation and programming in the performing arts."

To deal with every point raised, every area investigated, would take a report as long as the report itself. In the aggregate, it serves more than usefully to hack out some of the underbrush that clutters the terrain, enabling those who are so disposed to see exactly what the problems of growth are. It has assembled some pertinent statistics and put the problems of the performing arts in a recognizable perspective against the problems of other nonprofit institutions. It has given prominence to some urgent needs that might be considered by the newly appointed Presidential panel headed by Roger L. Stevens.

Its major recommendation for Federal assistance—"the present Federal aid for arts organizations * * * can be most effectively providing through matching grants to meet the capital needs of arts organizations"—is at least debatable. This would do nothing to answer the contention that artists "should not be required to subsidize the arts" and substitute a more splendid misery (to use Jefferson's phrase about the Presidency) for the less splendid misery to which it directs proper attention.

In a time when the Federal administration has elected to affiliate itself with the concept of a Great Society, it should be possible to push for something more than a housing program for the arts. If farmers, who feed the body of the Nation, are a primary con-

cern for aid programs, price support, and other assistance, the artists who feed its mind and spirit are entitled to something more than no concern at all. In a recent speech to the National Industrial Conference Board, President Lyndon B. Johnson said, "I am able to tell you that the Treasury * * * will shortly make public changes in the depreciation procedure which will allow business to receive this year about \$700 million of benefits * * *." It would take less than 10 percent of that to set up the whole interim establishment for the performing arts that the Rockefeller report recommends.

FIREARMS LEGISLATION

Mr. DODD. Mr. President, later today I shall introduce two firearms bills which constitute a major implementation of the war President Johnson has declared on our exploding crime problem.

I think it is appropriate to point up this occasion by inserting in the Record a radio editorial by Edward P. Morgan on the President's crime message.

Mr. Morgan is a broadcaster of wide experience and high reputation. I am confident that his comments put into proper focus for many Americans the concrete and immediate recommendations and the long-range possibilities for reducing crime that are contained in the President's message.

Not only do we have to stop the illicit traffic in guns and drugs. We have to go into the deeper and more intangible aspects of the crime problem, to find out "who is a criminal and why?" as Mr. Morgan puts it.

I share his hope that the commission the President will appoint will come up with a "penetrating analysis of the origins and nature of crime in the United States."

I commend this editorial to my colleagues' attention and ask unanimous consent to have it printed at this point in the Record.

There being no objection, the editorial was ordered to be printed in the Record, as follows:

EDWARD P. MORGAN AND THE NEWS

President Johnson makes it obvious that he is aware of the fact that no Great Society can be sustained without great reforms. His messages to Congress on conservation, on cities, on schools and other major aspects of American life calling for attention have all stressed not just the need for tax dollars to support new programs but the need for research, the urgency to break outdated molds and processes to find new and better ways of doing things. There was a similar emphasis in his message yesterday on crime but it will have to be sustained and sharpened in the areas of crime prevention and penal reforms before any real headway can be made against one of society's oldest afflictions.

The fact that the bid to end the unsupportable mail-order traffic in guns has now been made for the first time on the Presidential level should insure passage of the modest legislation proposed by Senator Thomas Don, of Connecticut, for that purpose. Hopefully, despite the cries of the firearms lobby, it may encourage individual States to fortify that measure with the objective not only of reducing crimes of violence and hunting accidents but of checking the growth of such potentially sinister vigilante outfits as the Minutemen whose members are armed against what they call the internal threat of communism. The 50 States, says a sensible New York Times edi-

torial, should not only bring rifles and shot-guns under licensing controls but ban the sale of pistols and revolvers.

But there are deeper problems. Who is a criminal and why? There have been countless studies of the question. Some reforms have ensued but the harsh fact is that the Nation's crime rate has doubled in 25 years. Now the President proposes a sweeping but penetrating analysis of the origins and nature of crime in the United States. This could be just another survey, published and stacked away to collect dust. Or it could be something verging on the revolutionary. Said the President: "We cannot tolerate an endless, self-defeating cycle of imprisonment, release, and reimprisonment which fails to alter undesirable attitudes and behavior. We must find ways to help the first offender and avoid a continuing career of crime."

One of the manuals the proposed Presidential law enforcement commission could well use is a little book published just last week, entitled "Behind Bars." It describes what Chaplain Julius A. Liebert saw in Alcatraz and California's Folsom and San Quentin prisons. With understandable anger, Rabbi Liebert discovered that on the whole, prison authorities expected a chaplain to "stick to the spiritual." Men of God, presumably, were to make their rounds without any earthly reactions to the waste and cruel injustices of prison life. Despairing of getting any attention through channels for his alarm over the failure of the parole system to rehabilitate criminals the rabbi finally wrote a letter to the San Francisco Chronicle suggesting a halfway point between prison and freedom where those eligible could adjust to their return to civilian life. The letter drew wide attention—and a round reprimand from the warden of San Quentin for violating institution redtape.

Chaplain Liebert is guilty of the human approach. He looked at the prisoners. "They were fellow human beings," he writes, "who for one reason or another had gotten in wrong. A man is born into a world he did not create, of parents he did not choose, inheriting traits about which he had nothing to say. Is he the chooser of his fate? The men here were murderers, rapists, robbers, perverts—cons. I walked among them and I thought 'There but for the grace of God go I.'"

"Prison punishment," the rabbi concludes flatly, "has no remedial value." He would not let a killer go free but he sees utterly no sense or justice in a system in which a youngster who starts as a delinquent gets a complete course in crime in prison instead of having some of his usefulness as a citizen salvaged. One of his ideas would be to have ex-convicts treated in convalescent homes, created on a national scale, "treated not punitively but psychiatrically, with compassion, with consideration, and with all the skill we have acquired for the reeducation and reconditioning of human misfits."

Crime in this country is becoming entirely too visible. One of the troubles with the prison system is that, like poverty, it is not visible enough. Hopefully, the President's Commission will bring home to the public the need for more form. It would be a crime not to.

This is Edward P. Morgan saying good night from Washington.

SEVEN HUNDRETH ANNIVERSARY OF BIRTH OF DANTE

Mr. DODD. Mr. President, I have noted with great interest that many of our fine Italian-American organizations are making special plans this year to honor the 700th anniversary of the birth of the great scholar Dante.

All Americans might well join with their friends and associates of Italian descent, to pay honor to one of the world's foremost citizens, a man who thought and acted centuries in advance of most of his contemporaries.

Dante Alighieri was a truly astonishing man. In a relatively short life—he died at the age of 56—he mastered many fields of knowledge and action.

He was not just a poet even though these works made him one of the greatest poets in history. His contributions to the medieval and modern civilizations encompass the fields of art, music, science, philosophy, and psychology as well.

In addition to these great gifts to mankind, Dante was one of the foremost statesmen of his time. His thoughts and writings on government are just as applicable and meaningful today as they were seven centuries ago.

I congratulate our loyal citizens of Italian parentage who are this year making an extra effort to call to everyone's attention the many great contributions which Dante has made to mankind.

I hope that our schools and colleges will also try to join in the celebration of this 700th anniversary, so as to help bring to the youth of America better understanding and appreciation of the immortal Dante Alighieri.

PROPOSAL FOR APPOINTMENT OF CUSTOMS COLLECTORS IN ACCORDANCE WITH CIVIL SERVICE LAWS

Mrs. SMITH. Mr. President, I am pleased to learn of the President's proposal that the appointment of customs collectors be taken out of politics and placed under civil service.

I advocated this as far back as 9 years ago in May 1956, when I introduced S. 3823, which proposed taking the appointment of customs collectors out of politics and requiring that they be appointed in accordance with civil service laws.

Unfortunately, my bill didn't get anywhere in the Senate at that time when the President was the majority leader of the Senate. That was during the time that a Republican President was making the appointments of customs collectors.

I am not unaware that, under the current proposal of the President, Democratic-appointed customs collectors would be frozen into their positions and that such a gain for Republican-appointed customs collectors would have been possible 9 years ago under my bill at that time.

But this comparative potential gain for the Democrats is not to be begrudged to the point of President Johnson's proposal being blocked by the Senate. I truly hope that the Senate this year will permit the President's proposal to go into effect as contrasted to the failure of the Senate 9 years ago to take any action on the same proposal incorporated in my then bill S. 3823.

THE VOTING RIGHTS BILL

Mr. ROBERTSON. Mr. President, I ask unanimous consent to have printed in the Record a notable editorial—from

the Wall Street Journal of Monday, March 22, 1965—entitled "An Immoral Law," pertaining to the pending voting bill, S. 1564, together with a copy of my telegram of today, to the editor of the Wall Street Journal, suggesting an appropriate postscript.

There being no objection, the editorial and the telegram were ordered to be printed in the Record, as follows:

[From the Wall Street Journal, Mar. 22, 1965]

AN IMMORAL LAW

When President Johnson last Monday asked Congress for a new law to safeguard the voting rights of Negro citizens he rested his case on the Constitution and on a basic principle of morality.

What he has now proposed that the Congress do is enact a law which would violate that Constitution he asks us not to flout and, more, which is itself immoral.

If you think not so, consider:

The administration bill offers a formula—a complicated one, which we will come to in a moment—to prohibit certain States from using any test of a citizen's ability to read and write our language as a qualification for voting.

The argument for doing this is the 15th amendment to the Constitution which provides, clearly enough, that neither the Federal Government nor any State shall deprive a citizen of his vote on account of his race or color.

But the proposed bill does not stop with providing means against the violation of the 15th amendment. It does not aim at insuring that any such State literacy test shall be fairly drawn and impartially administered so that it may not be used as an excuse to deprive anyone of his vote on account of his race.

The effect—and indeed the purpose—would be to abolish such tests entirely in the affected States. And that flies squarely in the face of this selfsame Constitution which the President professes to uphold.

The very first article of that Constitution authorizes the individual States to decide the qualifications of voters in both Federal and State elections, subject only to the proviso that whoever is deemed qualified to vote for the most numerous branch of the State legislature is automatically qualified to vote in Federal elections.

Making this a State function was no casual decision. It was reaffirmed in identical language in the 17th amendment—adopted, incidentally, more than 40 years after the 15th amendment, which provided that all such qualifications should be impartially applied among all citizens.

This principle in the Constitution has been repeatedly upheld and affirmed by the U.S. Supreme Court, not merely in dusty antiquity but as recently as 1957 by judges presently sitting upon that bench.

Now we are well aware that there are a good many people, and perhaps the President is included, who oppose any literacy requirement. They say that a man's illiteracy is irrelevant to the question of having his judgment counted in public affairs. No man can quarrel with the right of such people to argue their case and, if persuasive, to alter the Constitution so as to prohibit them.

But the requirement that voters be able to read and write is by no means restricted to those Southern States now the object of this special legislation. Many others—including New York State—requires that qualification, as the Constitution entitles them to do.

If it is immoral, as the President says, to deprive a qualified citizen of his right to vote "under color of a literacy test," is it moral to violate one part of the Constitution